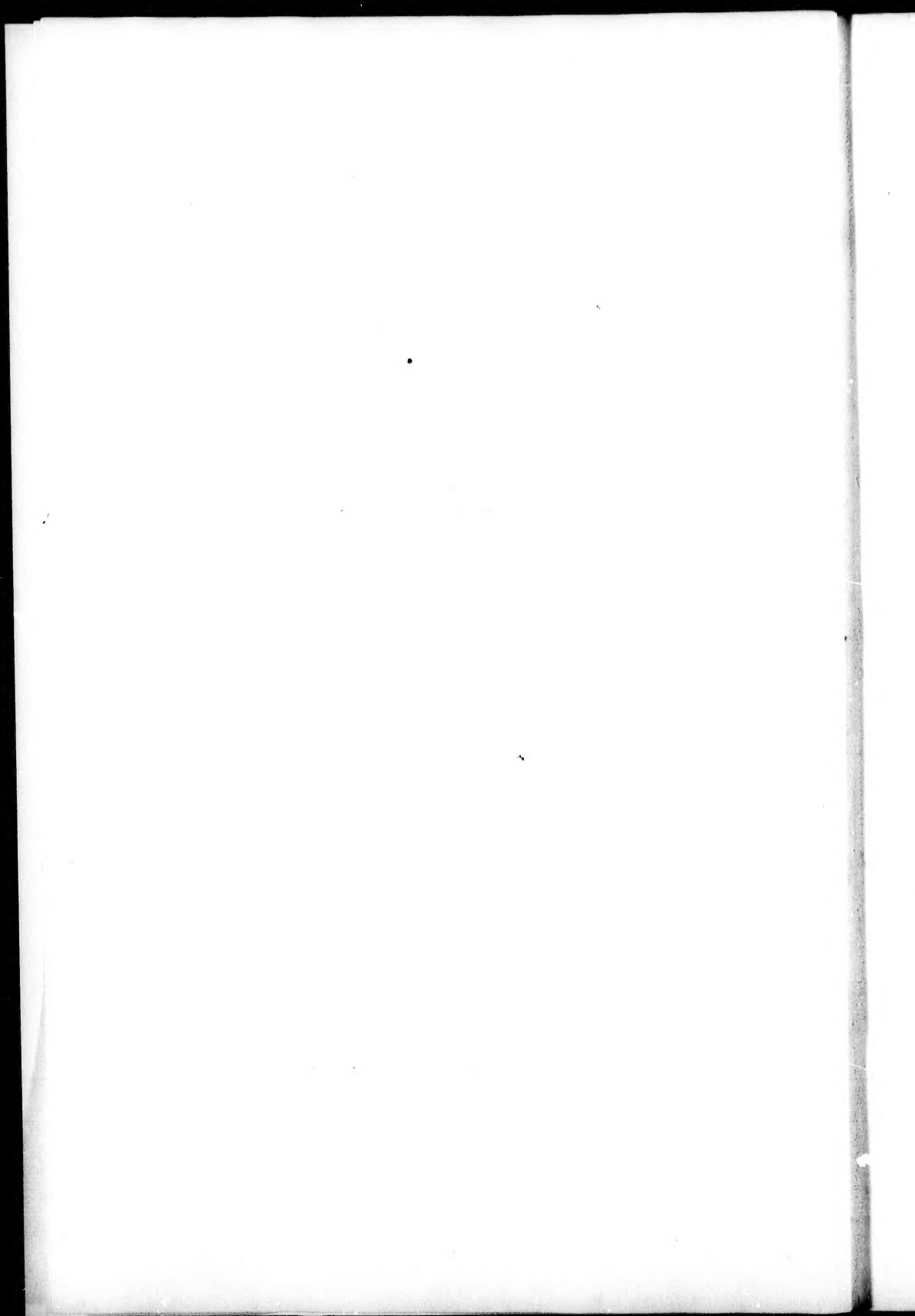


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REPORT
ON THE
BOUNDARY LINE
BETWEEN
THE PROVINCES OF
CANADA
AND
NEW BRUNSWICK;
WITH
AN APPENDIX.

MONTREAL:
PRINTED BY DESBARATS & DERBISHIRE,
PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

1844.



REPORT

ON THE

BOUNDARY LINE

BETWEEN THE PROVINCES OF

CANADA AND NEW BRUNSWICK.

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No. 1.

MONTREAL, 31st AUGUST, 1844.

SIR,

In obedience to the requirements contained in a letter from the Honorable D. Daly, Secretary for the Province of Canada, dated the 18th of October, 1843, informing me that His Excellency the Governor General had been pleased to appoint me to be Commissioner on behalf of the Province of Canada, to meet the Honorable Thomas Baillie, Surveyor General of the Province of New Brunswick, who had been named Commissioner for that Province, with the object of endeavouring to trace the boundary line between Canada and New Brunswick,—and also, conveying to me His Excellency's instructions in relation to the duties assigned me,—I now have the honor to report the completion of those duties, and to present, for His Excellency's consideration, a full Report, showing, from various indisputable authorities, the true position of every question now pending, connected with the disputed boundary.

The Commissioner named on the part of New Brunswick had completed and delivered his report on the boundary question previous to the date of my instructions, and, at our first interview in New Brunswick, he informed me that he considered his duties in relation thereto, to have terminated.

To prevent any misunderstanding, I addressed a letter to him, previous to my departure to other parts of the Province, adverting to the actual state of the relations between us, and still expressing my willingness and desire to avail myself of any suggestion from him by which the objects of the Commission could be facilitated, or more effectually accomplished.

Mr. Baillie never acknowledged the receipt of this letter, and tacitly declined every further communication, personal or otherwise, with me.

I was officially informed, however, the same day on which my letter was written and despatched to Mr. Baillie, that he had placed it in the hands of His Excellency the Lieutenant-Governor of New Brunswick.

I therefore proceeded by myself to perform the examinations and explorations necessary for fully ascertaining the true position originally intended and described, by the British Government, for the southern boundary line of the Province of Quebec, and also to find out and procure, where it was possible, such documentary authorities as would serve to explain or sustain the positions which should be ultimately adopted.

In these explorations and researches I was remarkably successful.

The natural features of the country were found to be so strongly marked, particularly in the vicinity of the Baie des Chaleurs, that no doubt could reasonably exist as to the local application of the terms used in the original descriptions of the southern boundary of Canada, and the result shows that New Brunswick, so far from being entitled to claim any additional territory from Canada, is now actually in possession of about 2,340,000 acres of territory, *unquestionably Canadian*, lying to the south of the Ristigouche river, and east of the prolongation of the due north line, forming the western limit of New Brunswick.

In the large mass of documentary authority having relation to the questions under consideration, it is a curious fact, that such authority has, in every case, been found favorable to the claims of Canada, and, of course, unfavorable to the pretensions of New Brunswick; and it will be seen that most of the positions alleged, or attempted to be sustained, on the part of the latter Province, adverse to the claims of Canada, have been confuted and completely disproved by authorities derived from documents forming parts of the public records of the same Province.

The difficulties which have hitherto been encountered in attempting to decide upon the positions of *separate parts* of this boundary, have mostly arisen from the very circumstance that such parts were taken *disjunctly* instead of being considered in relation to the whole line from the Baie des Chaleurs to the sources of the Connecticut river, as originally defined.

This was particularly felt in discussing the claims formerly maintained by the United States for territory immediately to the west of New Brunswick and adjoining a portion of the southern boundary of Canada.

The description of that portion of the boundary which is given in the treaty of 1763, and on which the American claims were founded, when taken by itself would fairly admit of the interpretation put upon it by that government, although not susceptible of such an interpretation if considered in connection with the previously defined lines of separation between the adjacent British Provinces, which were specially referred to and recognized in the same treaty.

But leaving this most improper and *imperfect* mode of dealing with the question, by arguments drawn from detached portions of the said description, (which, I regret to observe, has been adopted and tenaciously insisted upon on the part of New Brunswick,) and recurring to the facts brought under consideration in the accompanying Report, the conclusion is inevitable, that no difficulty whatever can possibly be met with in tracing the residue of the southern boundary of Canada, on which the northern line of New Brunswick is entirely dependent, according to the descriptions of *the whole* of the southern boundary of the former Province of Quebec, given under the authority of the British government in 1763 and 1774.

I have the honor to be,
Sir,
Your most obedient and
Very humble servant,
A. WELLS.

J. M. HIGGINSON, Esquire,
Civil Secretary, &c. &c.

No. 2.

Statement in relation to the Unsettled Boundary between the Provinces of Canada and New Brunswick.

The western and northerly boundaries of New Brunswick, as fixed by the Royal Authority, are described in the Commissions of the Governors of that Province as follows, viz:—

“ Bounded on the westward by the mouth of the river Saint Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our Province of Quebec, to the northward by the said boundary as far as the western extremity of the Baie des Chaleurs.” Appendix, No. 32

All descriptions of the same boundaries inserted in the Commissions of the Governors of Nova Scotia, from the year 1763, up to the period when New Brunswick was severed from that Province and erected into a separate government, are in nearly the same terms and are precisely identical in their construction with the description above recited.* Appendix, No. 2.

The southern boundary of the Province of Quebec, (now Canada,) as referred to in the foregoing description, is described in a Royal Proclamation of 1763 as follows, viz:—

“ From whence, (the south end of lake Nipissin) the said line crossing the river Saint Lawrence and the Lake Champlain in 45 degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said river Saint Lawrence from those which fall into the sea, and also along the north coast of the Baie des Chaleurs and the coast of the gulf of Saint Lawrence to Cape Rosier.”

The same boundary is again described in the imperial Act of 14 George III—commonly called the Quebec Act, in the following terms, viz:—

“ Founded on the south by a line from the Baie des Chaleurs, along the highlands which divide the rivers that empty themselves into the river Saint Lawrence, from those which fall into the sea, to a point in 45 degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the said latitude directly west through Lake Champlain, until in the same latitude it meets the Saint Lawrence.”

Descriptions of this boundary, similar to the foregoing, are also contained in the Commissions of the Governors of Canada. Appendix, No. 4, 5, 8, 9 and 10.

The western boundary of New Brunswick, formed by the river Saint Croix to its source, and thence by a due north line to the southern limits of Canada, was explored so far back as the years 1817 and 1818, and a line was then traced on a north course from the Map C.

* In the Commission to Montague Welmoit, esquire, appointing him Governor in Chief over the Province of Nova Scotia, dated 21st November, 1763, the boundaries in question are thus described:—

“ To the northward our said Province shall be bounded by the southern boundary of our Province of Quebec, as far as the western extremity of the Baie des Chaleurs; to the eastward by the said bay and the gulf of Saint Lawrence, &c., and to the westward, although our said Province hath anciently extended and doth of right extend, as far as the river Pentagoet or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the river Saint Croix, by the said river to its source and by a line drawn due north from thence to the southern boundary of our colony of Quebec.” Map

source of the Saint Croix river for a distance of about 146½ miles, terminating at one of the sources of the Metis river, which falls into the river Saint Lawrence. This north line intersected the southern boundary of Canada, as defined by the British government at the distance of about 42 miles from its commencement at the source of the Saint Croix, and therefore extends upwards of 104 miles, still further to the northward of that point, into the proper limits of Canada as so defined by Great Britain.

The exploration and survey of this boundary were performed at the periods before mentioned, under the joint authority of Great Britain and the United States of America, the possessions of the latter power being bounded in part by New Brunswick on the east, and by the British Canadian possessions on the north.

Appendix, No. 10.

The southern boundary of the Province of Canada (or of Quebec as it is designated in the description) is traced in the field, or definitively disposed of in its position, from the river Saint Lawrence, eastwardly and north-eastwardly, to the meridian of the western boundary of New Brunswick.

The north-eastern part of this now settled portion of the Canada line was fixed by conventional arrangements concluded between Her Majesty's government and that of the United States in 1842. Its termination on the New Brunswick frontier is at the place of intersection of the north line from the Saint Croix with the river Saint John, being about 35½ miles to the north of the point defined as before mentioned by Great Britain, for the southern limit of Canada on that frontier.

The territorial limit of New Brunswick in the meantime, has been extended as far north as to the Ristigouche river, which limits the present grants and civil jurisdictions of the respective Provinces, and has been tacitly assumed, without remonstrance on the part of Canada, as the dividing boundary up to the present period, although giving to New Brunswick several hundreds of thousands of acres of territory, rightfully belonging to Canada, according to the bounds specifically assigned her by the parent state, and supported in principle as such by the declarations and deeds of the people and government of New Brunswick itself during the existence of the difficulties in relation to more western portions of the same boundary, which difficulties were only terminated in 1812, by the definitive treaty of Washington.

With this preliminary view of the authorities upon which the claims of the two Provinces are founded, and of the actual position of the existing subdivisions between them, I will now proceed to state the nature of the claims for additional territory made by the authorities of New Brunswick, as contained in a report made by the Commissioner of that Province, appointed for determining the unsettled boundaries adjoining Canada, dated at Fredericton, New Brunswick, the 13th day of last October.

These claims being of two classes, entirely distinct in their nature, may perhaps be best understood if stated under separate heads.

The first of these comprehends a section of country situated entirely to the *west* of the meridian of the source of the river Saint Croix, before described as the *western* limit of New Brunswick.

This tract as shewn on the map of the New Brunswick Commissioner, and measured by the scale drawn on the same map, passes on its north-western border, about 10½ miles from the river Saint Lawrence, at a point nearly opposite the mouth of the river du Loup,

and approaches to within 36 miles of the city of Quebec, from which latter place its southern termination is distant about 67 miles, in a south south-eastern direction.

The dimensions of the territory so comprehended, according to the same authority, are nearly as follows :—

Length, on prolongation of north line from the Saint Croix.....	67 miles.
“ of north-western border.....	275 “
“ of south-eastern border.....	200 “
“ of mean central line.....	180 “
“ of Perimeter.....	542 “
Superficial contents.....	4,550 square miles,
“ “.....	2,912,000 acres.

The above described tract, it may be remembered, Map A. is situated *altogether to the west* of the meridian of the *western* line of New Brunswick.

The second tract, which includes the residue of the claim of New Brunswick, comprehends a part of the present possessions of Canada, lying contiguous to the prolongation of the due north line from the Saint Croix, on the west, and joining the Ristigouche river on the south-east.

The eastern and north-western boundaries of this tract are imaginary lines, traced on the map above-mentioned, beginning at a point on the Ristigouche river, about 17 miles above its mouth, and proceeding thence, nearly on a magnetically north course, for a distance of about 56 miles, thence westwardly and south-westwardly, along the sources of the streams flowing into the river Saint Lawrence, to the due north line from the Saint Croix, meeting and coinciding at that point with the south-western imaginary line as hereinbefore described.

According to the map whereon it is delineated, the dimensions of this tract are nearly as follows :—

Length, of south-east line (Ristigouche river)	95 miles.
“ of imaginary east- ern line.....	56 “
“ of imaginary north- westerly line.....	103 “
“ of west line (along north line from Saint Croix)	43 “
“ of Perimeter.....	297 “
Superficial contents.....	2,835 square miles.
“	1,814,400 acres.

The whole of this lies to the north of the Ristigouche river, as before stated, and is therefore claimed exclusively from the present possessions of Canada, without including a still larger extent of territory, now actually possessed by New Brunswick to the south of the Ristigouche, and situated to the north of the southern boundary of Canada, as set forth by the authority of the British government.*

It now remains to examine the grounds brought forward in support of these claims. A reference to

* It has been stated under the sanction of the authority of Appendix 7, No. 35, Great Britain, that the designation of the Ristigouche river for the southern boundary of Canada was "perfectly arbitrary and unsupported by any proof," this statement forming part of the argument in favor of the southern line of boundary passing Mars Hill.

Map A.

Page 11, of 20

Map A.

Appendix No.
35.

the Report made by the Commissioner of New Brunswick, which is already before the government, will shew that no satisfactory reasons are there alleged or attempted to be sustained in support of those claims. The only implied grounds of argument for that purpose, consist in the *assumption* of the principle that the southern boundary of Canada should be drawn *continuously* along the sources of streams falling into the river Saint Lawrence, from the head of the Baie des Chaleurs to a point in 45 degrees of north latitude, on the east bank of the Connecticut river.

It is indeed *affirmed* in that Report, as a conclusive argument in favor of the positions attempted to be sustained, that the boundary so described, "is as capable of being discovered and marked out as any definite line on the face of the earth."

Although that statement is, without doubt, strictly true, it is obvious that this and many other lines may also be so described in their direction as to be "capable of being discovered and marked out," without creating the inference that all such lines from that circumstance alone, are entitled to the distinction of becoming boundaries of territorial possessions.*

From a general view of the subject, it would appear that the New Brunswick Commissioner had tacitly adopted two very unfounded and erroneous conclusions in relation to the northern boundary of that Province:—

1st.—That the claims of New Brunswick were identical with those formerly sustained against Great Britain by the United States.

2nd.—That, by the conventional nature of the treaty of Washington, Great Britain had virtually admitted her former claims to be unfounded, and consequently,

* It is certainly not a little curious that the Commissioner for New Brunswick should have deemed it necessary to *search* for the head of the Baie des Chaleurs as if that were an undefined position, and it is still more surprising that he should, in the face of every authority have selected his "starting point" on the Ristigouche river several miles above its mouth in the Baie des Chaleurs.

Pages, of Map.

Map B.

Appendix, No. 11 to 19 inclusive.

It will be shewn in the general report on the part of Canada in relation to this subject, that the mouth of the Ristigouche river and the head of the Baie des Chaleurs are both found at the town of Dalhousie, about 17 miles below that assumed "starting point," that this river and the Baie des Chaleurs, respectively, retain their distinctive names and characters to the place of their common junction at Dalhousie, and now are, and since the discovery of the country ever have been, so known and distinguished in the public documents of both Provinces, not excepting those of recent date under the hand of the Surveyor General of New Brunswick.

From these considerations, it is evident that the designation of the head of the Baie des Chaleurs and Ristigouche river, as assumed on the part of New Brunswick, can only be viewed as an attempt to give new titles to those grand natural divisions of the country, and that such an attempt can never be allowed to operate to the prejudice of the pre-existing distinct rights of one or the other of the Provinces. The Commissioner goes on in the same Report to state that the boundary line from the "starting point" selected by him, "could run about north" to the highlands described in the Quebec Act, but, why it should run "about north" in preference to any other direction, remains to be ascertained.

It cannot be run on that course from any supposed relation it might then possess with respect to the general direction of the required boundary, as that is nearly south-west, approaching to an *opposite* course from that of the Commissioner; neither can it be so traced on the score of proximity to the line of highlands now claimed by New Brunswick, as those highlands are found less remote from the above "starting point" in various other directions more conformable to the course of the boundary. Lastly, a line cannot be run from this "starting point, about north" and at the same time follow along any highlands like those described in the Quebec Act, as such a line would only pass among streams falling into the Ristigouche river and Baie des Chaleurs.

Map A.

that in maintaining them she had been acting in bad faith towards the United States for upwards of half a century before.

The second of these conclusions is consequent from the first, and that the first is now correctly assumed, as being expressed in the Report of the New Brunswick claims, will appear evident from the slightest inspection of the map accompanying the Commissioner's Report where the northern limit of those claims is traced precisely along the line formerly contended for by the United States, to its easterly termination, and is continued from thence towards Cape Rosier, for a distance of upwards of 100 miles, to the imaginary line before described, traced from a point on the Ristigouche river, for the eastern boundary of that part of the claims of New Brunswick.

It will be easy to shew that those conclusions, as well as the claims consequent from them, are wholly unfounded.

The highlands mentioned in the Quebec Act, are *not* continuous between the points which the boundary itself is required to connect, as it was found that the dividing line between the sources of streams flowing into the Saint Lawrence and those discharging themselves in other directions would not approach either the point mentioned in 45 degrees of north latitude or the head of the Baie des Chaleurs, but passed north of both, the distance of the latter point being nearly 60 miles. Indeed it is repugnant to common sense to suppose for a moment that the framers of the description ever imagined the line of the sources of the Saint Lawrence waters to be continuous throughout this portion of the boundary, as such an opinion would have involved the very absurd and impossible conclusion that these sources would be found on the shore of an arm

The assumed northern course is therefore entirely arbitrary and wholly at variance with the description of the eastern part of this boundary line.

But the most extraordinary feature of that Report is the discrepancy which exists between the description given of the western boundary line of New Brunswick, and the same line as drawn on the Commissioner's map, which forms a part of the Report.

The southern boundary of Canada, as there represented and claimed, is drawn on the map *passing 67 miles to the north* of the northern end of the western line of New Brunswick, the latter being terminated, to the north at the true point of its intersection with that part of the southern line of Canada which was settled by the treaty of Washington.

It might naturally have been supposed, in adopting a more remote position for the northern limit of New Brunswick, that the Commissioner would have seen the necessity of also extending the western line of the Province to the same point, for giving some color of consistency to that extended claim, but, however strange it may seem, such does not appear to have been the result.

The western boundary line, although described by the Commissioner in the same Report as extending on a due north course to the southern boundary of Canada, is nevertheless terminated 67 miles before it reaches that limit, as he has seen fit to define it, and it is through the gap left by this omission that the pretensions of New Brunswick are made to extend south-westerly for a mean distance of about 180 miles, forming the most considerable part of her present claims.

The omission, on the New Brunswick map, of that portion of the due north line, whether accidental or designed, is however of very little importance, as no claim of right can possibly be sustained on the part of New Brunswick, to any territories whatsoever to the west of her defined western boundary, that boundary from the explicit nature of the terms in which it is so defined, being inseparably connected with the southern line of Canada, wherever the latter may be placed in virtue of the authority of the Royal Proclamation of 1763, or the Quebec Act.

Appendix, No. 32.

Appendix, No. 33.

Map A.

Map A.

Page 18.

of the sea, lying below the level of the streams themselves, and on the bank of a considerable river, running in a contrary direction.

The highlands specifically set forth in the Quebec Act, and other descriptions of this boundary, must therefore of necessity form only the middle part of the same, and the positions of the two extremes, from those highlands to the required point in 45 degrees of north latitude on the south-west, and from the same highlands to the head of the Baie des Chaleurs on the north-east, have to be deduced from a combined and due consideration of the local features of the country, and the evident intent of the description itself.

Appendix, No. 32. It has long since been decided, after extended investigations of this subject by those employed for the purpose

by the British government, that a marked and well defined range of highlands, extending from those more particularly defined, in the descriptions, to the Baie des Chaleurs, was the dividing line intended in the Proclamation of 1763, and the Quebec Act of 1774, on the north-eastern part of this boundary, the channel of the Connecticut river itself having been previously defined as the connecting part of the north-western extremity, thus completing the entire line from the Baie des Chaleurs to the parallel of 45° of north latitude.

Map A.

This line, confirmed in the position so assigned it by repeated acts and declarations under the authority of the United Kingdom, is shown on the map accompanying this statement, and forms the only limit of the contiguous parts of Canada and New Brunswick, as they are now constituted, which has been declared or defined by the paramount authority of the British Crown.*

But it is by no means to be inferred that the strength of the claim of Canada rests solely and exclusively on the weight of the authority by which the position of the part of her southern boundary, now under consideration, has been deduced from the original descriptions contained in the Proclamation of 1763, and the Quebec Act of 1774.

It requires no very extended consideration of the subject to render it perfectly evident, that the view of the question, taken by the British government, is correct and just in every particular.

The boundary as described is to be a *line*, this *line* connecting two defined points, which are at the extremities thereof, and passing *along* certain defined highlands for an indefinite distance in some parts of the intermediate space.

Appendix, No. 32.

The two extreme points of this line, and consequently, its general direction cannot be mistaken, and the position and extent of the specified highlands, *along* which the line has to pass in its course between those points, are now, also, well known and established. These highlands extend from the source of the Connecticut river, north-eastwardly, for a distance of upwards of 100 miles in the required direction, and

Map A.

* It is true that the claim of Great Britain was asserted specially in respect to a part of the boundary, terminating on the western line of New Brunswick, but, it will be shown in another part of this statement that the eastern termination of that section of the boundary on the western line of New Brunswick, was at the same time defined as the north-west angle of that Province. As this angle could only be formed by the intersection of the northern and western lines of the Province, and the northern line was a part of the continuous boundary of Canada, it must of course follow that the acts and declarations of Great Britain in relation to the part of the boundary joining the American possessions, did likewise specifically apply and extend to the whole line up to the Baie des Chaleurs.

Page 18.

terminate near the source of the Motgermette river, up to which point the actually existing southern boundary of Canada is traced along the line of their greatest elevation. Appendix, No. 32.

At the above point the continuity of these highlands Map A. is broken, and the streams falling into the Saint Lawrence as well as those discharging in other directions, have their sources in a large swamp, or tract of dead flat country, extending many miles to the northward. The line of direction of the common sources of those streams at the same time takes a northern and then a north-western course, leading far to the north of any position which could be ascribed to the boundary as set forth in the Quebec Act, and, after passing the portion of flat country above mentioned and again assuming a generally north-eastern course, it passes many miles to the north of the whole north coast of the Baie des Chaleurs, and finally terminates a few miles from the river and gulf of Saint Lawrence near Cape Rosiers.

But although the line of highlands directly connected with sources of streams falling into the Saint Lawrence, ceases at the point before stated, the highland range itself still continues in the direction of the Baie des Chaleurs, forming with that proceeding from the source of the Connecticut river, a continuous line in the required direction. It is along this continuation of the line of highlands set forth in the proclamation of 1763 and the Quebec Act of 1774, that the line for the southern boundary of Canada, has been laid down, as already stated, by Great Britain, and bearing in mind the obvious fact that it could never have been imagined by the framers of either of those documents that the highlands maintained their specific character throughout the whole distance, the conclusion is thence inevitable, that this line as so defined by Great Britain, is, in every particular conformable to the language and intent of the descriptions from which its position is required to be established. Appendix, No. 33.

Had the space between the Baie des Chaleurs and the highlands of the treaty contained no continuation of highlands, the portion of the boundary passing through that space must of course have been drawn in a right line; the rational as well as the legal construction of such descriptions being to connect given points, lying remote from each other, with right lines, when no reasons of sufficient weight can be adduced for any special deviation, either way, in other directions. In this instance, however, as there actually exists a continuation of the defined range of highlands, the unavoidable inference must be in favour of their adoption for the purposes of the present boundary.

It now remains to show that the present claims of New Brunswick are not identifiable with those formerly maintained by the government of the United States against Great Britain, and that the conventional arrangements concluded between those two powers at the treaty of Washington, in 1842, only affect the southern limit of Canada entirely to the west of any part of New Brunswick.

The second article of the treaty of 1783, on which the American claims were founded thus describes the boundaries in question, viz:—"From the north-west angle of Nova Scotia, viz:—that angle which is formed by a line drawn due north from the source of the Saint Croix river to the highlands; along the said highlands which divide those rivers that empty themselves into the river Saint Lawrence from those which fall into the Atlantic ocean to the north-westernmost head of Connecticut river, thence down along the middle of that river to the 45th degree of north latitude, east by a line to be drawn along the middle Appendix, No. 33.

"of the river Saint Croix, from its mouth in the Bay of Fundy to its source; and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic ocean from those which fall into the river Saint Lawrence."

On comparing the language of the foregoing descriptions with that adopted in defining the boundaries of Canada and New Brunswick (the latter then forming part of Nova Scotia,) the following conclusions become demonstrably evident.

1st.—That the eastern line of the American boundary, as set forth in the treaty of 1783, is identically the same with the western boundary of New Brunswick, from its commencement at the mouth of the river Saint Croix, to its northern termination on the southern boundary of Canada.*

2nd.—That the northern line of the American boundary, according to the treaty of 1783, was intended to be the same as the southern boundary of Canada, as far as the American territories extended to the east.

The similarity of language in the descriptions will of itself show that the American and Canadian boundaries were the same from the sources of the Connecticut river to the western line of Nova Scotia, and the definition given in the treaty of the point of intersection of the eastern and northern lines of the American territory, as being, "*the north-west angle of Nova Scotia*," constitutes the fact conclusively, beyond the reach of argument, that such was literally the intention of the treaty, as, the northern line of Nova Scotia was only defined as being a part of the continuous boundary of Canada, and the north-west angle of Nova Scotia, must of course have been formed by the intersection of her northern and western boundaries.

From a consideration of these features of the case, it becomes still more evident that New Brunswick can maintain no claims for territory to the west of a north line from the source of the river Saint Croix, and that the determination of the southern boundary of Canada, from the west up to the north-west angle of New Brunswick, also determines the position of the residue of that boundary, and consequently, of the whole of the northern boundary of New Brunswick.

The point at which the southern line of Canada meets the western line of New Brunswick, and consequently forms the north-west angle of the latter, together with the position of the Canada boundary to the west of that point, are thus laid down on the part of Great Britain, in the first statement laid before the King of the Netherlands, viz:—

Appendix, No. 15, 8, 9, and 10.

* The identity of the river Saint Croix was formerly a subject of difference in the case of adverse territorial claims between the Crowns of France and Great Britain, the latter contending that the Pentagoet or Penobscot river was the one originally intended by that name.

Appendix, No. 2.

These discussions were terminated in the final conquest, by the British arms, of the entire territory in dispute, and, in assigning new limits to the conquered Provinces, Great Britain expressly restricted the western boundary of Nova Scotia to the easternmost of the two rivers.

Doubts were afterwards raised and difficulties ensued in relation to the particular branch of the river Saint Croix intended in the description of Nova Scotia, and repeated in the treaty concluded with the United States in 1783, but all such difficulties were subsequently settled between the governments of Great Britain and the United States, and the exploratory due north line previously traced under the authority of the two governments from the source of the northern branch of the Saint Croix, was finally confirmed as the permanent boundary line, by the definitive treaty concluded in 1842, at Washington.

"Great Britain contends that the point thus described Appendix, No. 31, is found at or near an elevation called Mars Hill, which is situated in a due north line from the source of the Saint Croix river, and south of the river Saint John, that the highlands intended by the treaty (of 1783) are those extending from that point to the Connecticut river."

It may be observed that the objections raised on the part of the United States to the line as defined and contended for by Great Britain, derived their principal strength from the circumstance that only a part of the boundary of Canada, as originally described, was included in the description of the treaty of 1783.

It has already been shown that it was not possible for any line to be traced from the head of the Baie des Chaleurs, immediately along the regions of the sources of streams falling into the Saint Lawrence, but it is quite possible for a line to extend continuously, along such sources, from a point in the meridian of the source of the Saint Croix river, to the head of Connecticut river, and the line of the treaty of 1783 only extended eastwardly to that meridian.

The Americans claimed all the territory, situated to the west of that line, up to the line of the sources of the Saint Lawrence waters, as far as the Connecticut river,

* The primitive subdivision of New Brunswick into counties Appendix, No. 10, was effected in the year 1783, by the authority of Royal Let-28 and 30, 31, Patent under the Great Seal of that Province. According to that subdivision the only counties, actually touching the northern limits of the Province were those of Northumberland and York, the boundaries of which in the Letters Patent were thus described, respectively, viz:—

Northumberland.—"Bounded southerly by the county of Westmoreland, easterly by the gulf of Saint Lawrence and the Baie des Chaleurs; northerly by the said Bay and the southern boundary of the Province of Quebec, and westerly by a continuation of the western boundary line of the said county of Westmoreland."

York.—"Bounded on the south-west by Charlotte county, on the north-east by the county of Northumberland; on the north-west by the Province of Quebec, and on the south-east by the north boundary line of the township of Mangerville, and by the said line continued to the north-west till it meets the western bounds of Northumberland county, and south-west to the eastern boundary of the county of Charlotte." The reference contained in the foregoing descriptions, to those parts of the southern boundary of Canada, which form the northern limit of New Brunswick are highly important, from the light they throw on the questions now under consideration in respect to the same boundary.

It will be seen from thence that the county of Northumberland was bounded first easterly and then northerly by the Baie des Chaleurs, and thence that the residue of the northern boundary was formed by the south line of the Province of Quebec.

This county then did not extend to the north of the Baie des Chaleurs, as that would have caused its eastern boundary to have been formed in part by the western line of the Province of Quebec. As it is thus constituted that the boundary of Canada cannot extend northerly from the Baie des Chaleurs; the next step is to ascertain, if possible, from the same authority, the direction in which the same must be traced.

Ample and most conclusive authority for deciding this question is found in the description of the county of York. On referring to that description it will be seen that the county of York was bounded on the north-west by the Province of Quebec;—from whence follows the unavoidable inference that the continuous limit of the Province of Quebec, must have extended in a south-western and north-eastern direction.

The above descriptions were, of course, intended to be subordinate to the definition of the general limits of the Province, as those limits had been fixed in 1763, and the evidence they afford is therefore particularly valuable from the fact that it fully explains the interpretation then given to the language of the Quebec Act in intercolonial relations, and shows that this interpretation is the same with that claimed on the part of Great Britain in relation to a foreign state.

Appendix 32.

Appendix 10.

Map A Pages 17.

Appendix 10.

Map F

and it must be admitted that the language of the treaty, if taken by itself, without reference to other authority, would at least warrant the presumption that such a claim might not have been wholly unfounded.

But as there were, in the same treaty, direct references made to already constituted and recognized subdivisions of the adjacent British possessions, and the lines bounding those subdivisions were the same with the boundaries in part set forth by the treaty, the rational and unavoidable inference would seem to be, that the previous definitions of the limits of such recognized subdivisions must be taken into consideration conjointly with the descriptions of them given in the treaty.

In adopting the latter view of the question, it is evident that Great Britain only claimed according to the obvious intent of the treaty itself, as the language of that document is applicable to the boundary described in the Quebec Act and claimed by Great Britain, although admitting of a more extended construction when considered apart from other collateral authorities.

This, it is presumed, is sufficient to show, in the clearest light, that the claims of Great Britain were well founded, and as such were sustained by her in perfect good faith.

At the same time other claims adverse to those of Great Britain were maintained by the United States, and grounds of support for each were found in the treaty of 1783, as before mentioned, as it was construed either with or without relation to other documents.

Both governments thus persisting in the justice of their respective claims, and every attempt in endeavoring to come to a common understanding on the subject having completely failed, it was no doubt both wise and expedient to adopt a conventional line of boundary between their respective possessions, as was finally done in the year 1842, by the definitive treaty of Washington.

By this treaty a considerable extent of territory assigned by Great Britain to the Province of Quebec, was now transferred to the United States, but no part or parcel of any territory whatever, lying within the possible limits of New Brunswick, was changed or affected by that disposition of the boundary.

The western boundary of New Brunswick, though formerly a subject of difference between Great Britain and the United States, had been previously settled by the authority of the two governments, its position being merely confirmed by the treaty of Washington, and the territory conveyed to the United States by that treaty was bounded on the east by a continuation of the same north line, from the Saint Croix river, which actually forms the westerly limit of New Brunswick.

It has thus been shewn that the American claim derived its support from the circumstance that only that part of the southern boundary of Canada, which formed the northern limit of the territory then assigned to the United States, was described in the treaty of 1783. It has also been shewn that the language of the treaty, when taken by itself, admitted of an interpretation favorable to the American claims, but which, nevertheless, was wholly irreconcilable with the previous descriptions of the entire boundaries directly referred to in the same treaty, as identical with those therein set forth and described.

These considerations, it is presumed, are sufficient, for proving conclusively that none of the doubts supposed to exist respecting the proper construction of the treaty

of 1783, can by any inference, be deemed to extend to other parts of the limits assigned by Great Britain to her colonies.

The northern line of New Brunswick is therefore to be established simply as being part of the southern boundary of the Province of Quebec according to the territorial limits of that Province as declared by the imperial government in 1763, and more specially defined in the Quebec Act of 1774.

In concluding this statement, it may perhaps be well to briefly recapitulate the leading features of the points which have been brought under consideration.

The treaty of 1783 was the act of two parties, and the sense in which either party understood it did not bind the other if the terms were in themselves doubtful. They could therefore agree subsequently to a compromise, without its being necessary that either should acknowledge its interpretation to have been incorrect. It cannot therefore be inferred from the treaty of 1812 that the government of Great Britain recedes in any way from its interpretation of that of 1783.

But the Proclamation fixing the boundaries of the Province of Quebec (Canada,) was the act of the British government alone, and the sense which it subsequently put upon the expressions in the treaty of 1783 must be held to be that in which it used similar expressions in the said Proclamation; more especially when the sense is consistent; and the only one that is consistent with its subsequent acts. Now this sense fixes the north-west angle of Nova Scotia (and consequently of New Brunswick, which was entirely formed out of a portion of Nova Scotia) in the range of highlands of which Mars Hill forms part, and at or near said Hill.

The highlands along which the southern boundary of the Province of Quebec, as described in the Proclamation of 1763, and the Quebec Act, must pass, to reach the western extremity of the Baie des Chaleurs can be no other than those drawn on the map as running from the said Bay to Mars Hill and forming part of the same ridge which afterwards constitutes the boundary as claimed by Great Britain, between Canada and the United States.

It is quite sufficient to constitute this ridge the true boundary, as understood by the British government, that it should be nearly continuous, and that, at some point, it should separate the waters which flow into the Saint Lawrence from those which fall into the sea, which for all purposes in which the intention of the government of Great Britain is alone in question, must be interpreted as that government has interpreted it, to mean the *atlantic ocean*, or the sea, south of the mouth of the Saint Croix. It is not requisite that the ridge should be absolutely unbroken, or that at every point it should have waters running off into the Saint Lawrence on one side, and into the sea on the other.

The boundary claimed by New Brunswick would commence by running 50 or 60 miles, from near the head of the Baie des Chaleurs, across a ridge and along a level country, to another ridge which the government of Great Britain has declared not to be highlands it intended in the treaty, and consequently in its other acts.

In none of the descriptions of Nova Scotia or New Brunswick, contained in the official acts of the British government, is either of them described as being

Appendix, No. 34.

Pages 1 and 5.

Appendix, No. 33.

Appendix, No. 28 and 30.

Appendix, No. 19.

Map A.

Pages 16 and 17.

Appendix, No. 10.

Map B.

Appendix, No. 10.

Appendix, No. 34.

Page 1, *et seq.*

Map A.

Map A.

Appendix, No. 29.

bounded on the east by any part of the Province of Quebec, yet this must have been the case if the line claimed by New Brunswick as running "about north" from near the head of the Baie des Chaleurs, had been intended as the true one.

In none of the said descriptions is Nova Scotia or New Brunswick described as being bounded by the territories now belonging to the United States, except along the due north line from the source of the Saint Croix to the highlands; whereas, if the boundary now claimed by New Brunswick were that understood in the said descriptions, it would be bounded by the United States on the south and south-east for about 200 miles.

In the first Act of the Legislature of New Brunswick, passed in 1786, and in the Royal Letters Patent under the Great Seal of that Province, cited in that Act, two counties only (Northumberland and York), are described as being bounded in any part by the Province of Quebec, yet neither of them are described as being bounded on the south by the United States, but on the contrary, both are described as being bounded southerly by other portions of New Brunswick, nor is any part of Northumberland described as being bounded on the east or north-east by the Province of Quebec, as it must have been if it had been intended to extend north of the head of the Baie des Chaleurs.

All the said descriptions are, on the contrary, perfectly consistent with the interpretation given by Great Britain to the treaty of 1783; Canada contends that Great Britain was in perfect good faith in that interpretation, and that all her acts, and more especially the boundaries she has assigned to her own Provinces, have been, and are, perfectly consistent with that interpretation.

The claim of New Brunswick supposes Great Britain to have been in bad faith in that interpretation and to have assigned one meaning to certain terms in her argument with the United States, and another meaning to the same terms in the Proclamation and documents fixing the boundaries between her colonies.

But even were it possible to suppose Great Britain to have been acting in bad faith in supporting her claims against the United States, no land west of the due north line claimed by the United States could form part of New Brunswick. It would be territory newly acquired by Great Britain, which she might assign to either Province. A considerable portion of it round lake Temiscouata has long since been granted by the Crown *en Seignaurie* under the Great Seal of Canada, as part of that Province, and a glance at the map will shew to which Province the rest would be most conveniently assigned, while it will also show what boundary the government of Great Britain, (which in 1763 had the whole territory now in dispute at its disposal) would most naturally assign to the Province of Canada, more especially after having determined that the district of Gaspé should be dismembered from Nova Scotia and should form part of Lower Canada. Even without the interpretation given by Great Britain to the treaty of 1783, and the Proclamation of 1763, the conclusion appears obvious, in favor of the line claimed by Canada, but, coupled with that interpretation, it is inevitable.

Appendix, No. 1st.—It appears therefore that the western boundary of the Province of New Brunswick has been for many years traced on the face of the country, and is definitively confirmed in its position by treaties with foreign states.

2nd.—That the position assigned to the southern boundary of the Province of Quebec, and northern boundary of New Brunswick, by the imperial government, in 1763 and 1774, can be fully ascertained from the language of the descriptions thereof then given, and that any doubts which may have been alleged to exist respecting the proper construction of those descriptions, are wholly superseded and set at rest by the express definitions of the same, given under the authority of the imperial government, such authority being as decisive in defining as in first declaring the limits of colonial dependencies.

3rd.—That New Brunswick can derive no claim for additional territories beyond those first assigned her in 1763, by virtue of any proceedings which have since taken place between Great Britain and the United States of America, as the latter power claimed under a treaty only affecting the southern boundary of Canada, entirely to the west of New Brunswick, and consequently, any doubtful interpretations of the description of the Canada boundary, growing exclusively out of the language used in that treaty, could not extend in effect to another part of the boundary, entirely without the limits of the territories therein referred to.

4th.—That the residue of the southern boundary line of Canada, forming the northern boundary line of New Brunswick, must therefore be traced according to the original descriptions thereof, and when so traced, will extend from the true head of the Baie des Chaleurs, in a south-western direction, to the already established western boundary line of New Brunswick, terminating on the same near an elevation called Mars Hill.

5th.—From whence it is evident that the present possessions of New Brunswick, as they extend to the Ristigouche river, form a direct encroachment on the proper limits of Canada, and that the claims put forward for additional territories, to the north of the Ristigouche river and west of her established western boundary, are wholly unfounded.

No. 3.

WESTERN EXTREMITY.

OF THE

BAIE DES CHALEURS.

Remarks on a Statement concerning the position of the Western Extremity of the Baie des Chaleurs, as made by the Honorable Thomas Baillie, Surveyor General of the Province of New Brunswick, then acting as Boundary Line Commissioner for that Province.

The statement in relation to the western extremity of the Baie des Chaleurs, made by Mr. Baillie, acting as the boundary line Commissioner for New Brunswick, is comprised in the following literal extract from his report, dated 13th October, 1843, viz:—

"It was therefore my object to discover what point constituted the western extremity, and I was glad to find that nature has so strongly marked the spot, as, in my humble opinion, to leave no opening for discussion or difficulty."

"It is situated at high water mark a little to the eastward of Mission Point, on the north side of the Baie des Chaleurs, about a mile above Campbelltown, which is on the south side of the same Bay."

Appendix, No. 2, and 30.

Map A. B.

Appendix, No. 2, 9, and 10.

Appendix 11.
Map B.

Appendix 11 and 12.

Appendix 13.

Appendix 14.

Preceding statement, vide Note, page 1.

The correctness of this latter statement, in all its parts and members, is peremptorily denied on the part of Canada.

It will be proved conclusively that the point above described by Mr. Baillie, as being on the north side of the *Baie des Chaleurs*, and, at the same time, declared by him to constitute the western extremity or end of the same Bay, is merely a point on the northerly side of the *Ristigouche* river, and that Campbelltown, a village on the opposite side of the stream, about a mile below this point, is not on the south side of the *Baie des Chaleurs*, but is situated on the south shore of the *Ristigouche* river, about 10 miles above its mouth, which is near the true western extremity of the *Baie des Chaleurs*, at Dalhousie.

Appendix, No. 11. By referring to documentary authorities, it will be seen that the French government, so far back as the year 1691, granted to the *Sieur d'Eneau* a tract of land under the name of *Cloridon*, extending eight leagues along the *Ristigouche* river, and the same distance in depth.

The title to the grant so made in 1691, was a renewal of a former title deed to the same territory, which had been carried off from the grantee by the English, probably in some of the many incursions made, by them or the New England colonists, into those parts of the French possessions.

This grant was expressly defined as extending along the *Ristigouche* river, and, as may be seen by reference to map B, it includes within its limits the point described by Mr. Baillie as being on the north side and at the western extremity of the *Baie des Chaleurs*.

Appendix, No. 11 and 12. The territory comprehended in the grant to the *Sieur d'Eneau* was held *en Seigneurie* in virtue of the title of 1691, until the year 1787, when it was acquired by the Crown, under the *Royal droit de retrait*, and annexed to the domains of the Crown in the Province of Quebec, now Canada.

Appendix, No. 13. In the following year (1788) John Collins, esquire, Deputy Surveyor General for the Province of Quebec, surveyed a tract along the *Ristigouche* river for the Messrs. Mann, in obedience to an order in Council of the Province of Quebec, of the 8th May, 1788. The south-eastern angle of this tract was placed on the north side of the *Ristigouche* river, at the point which had previously formed the same relative angle of the former Seignior of Cloridon, and the tract was described as "situated on the north side of the river *Ristigouche*," and extending upwards for three miles, measured in a straight line from the south-eastern angle thereof.

Appendix, No. 11. Shortly after the date of the above survey and description, in the same year, the government of Quebec made a grant in fee and seigniority to John Shoolbred, esquire, which is described generally in the Letters Patent granting the same, as follows, viz:—

"Also a certain other tract of land situate on the westernmost extremity of *Chaleurs Bay*, running up the river *Ristigouche* about 15 miles to the first point of land below Battery Point."

The tract of land mentioned in this grant, as well as that described in the survey for the grant to the Messrs. Mann, are still described, and daily referred to, as bounded in front by the *Ristigouche* river, thus affording, when taken in connection with the ancient description of Cloridon, an uninterrupted chain of official, documentary evidence, shewing conclusively that the *Ristigouche* river, quite down to its entrance into the

true *Baie des Chaleurs*, at or near Dalhousie, has been known, by that name, from a period indefinitely anterior to the year 1691, down to the present day.

As the *Ristigouche* river, from its source to its mouth, is entirely within the true Canadian boundaries, and it is only within a comparatively recent period that New Brunswick has extended her possession to that river, there are consequently no records of Nova Scotia or New Brunswick, relating to the *Ristigouche*, which extend back to the remote period embraced by those before cited from the official records of Canada.

There are, however, very many official documents referring to the *Ristigouche* river, among the public records of New Brunswick, which have accumulated since that Province extended its grants and possession to the *Ristigouche*.

The concurrent testimony derived from those documents is perfectly conclusive in defining the exact positions of the western extremity of the *Baie des Chaleurs*, and the mouth or entrance of the *Ristigouche* river, affording an unqualified contradiction to Mr. Baillie's statements,—that Campbelltown is situated on the south side of the *Baie des Chaleurs*, and that the spot he had selected on the opposite shore for a "starting point" for the Canada and New Brunswick boundary line, about a mile above Campbelltown, is on the north side and western end of the same Bay.

The first of the documents to which reference is now made is an instrument under the authority of New Brunswick, dated 8th January, 1802, containing an original grant to Samuel Lee, esquire, of the land which includes Quinton's Point, where Campbelltown is situated. The tract so granted was distinguished as forming lots Nos. 15 and 16, and was specially described as being situated "on the southerly side of *Ristigouche* river," and the front, from its western limit, was defined as extending along the southerly bank or shore of the *Ristigouche* river, "following its several courses down stream, to the entrance of Walker's Brook." The latter stream is also described as discharging "into *Ristigouche* river aforesaid, about fifty chains of four poles each, south-easterly from Quinton's Point."

Another grant was, in like manner, made by the government of New Brunswick to Adam Gerard, junr., and sundry other persons, dated the 3rd June, 1812. This tract was likewise described as extending along the south side of the *Ristigouche* river, and embraced within its limits 13 farm lots, numbered from 5 to 17 inclusive, and comprehending the two lots Nos. 15 and 16, granted to Samuel Lee, esquire, in 1802, as before mentioned.

On referring to the map, it will be seen that the limits of this latter grant extend along the south shore of the *Ristigouche*, considerably above and below the two points which Mr. Baillie has designated as being, respectively, on the north and south sides of the *Baie des Chaleurs*.

The next public document of New Brunswick comes under consideration is the copy of a plan, recently received from the government of that Province, shewing the original reserve at Dalhousie, this document being originally signed by Geo. Sproule, formerly Surveyor General of New Brunswick, and attested by the signature of the present incumbent, the Honorable Thomas Baillie.

This plan, although exceedingly defective,—being without date as to the time of its original compilation, or the period when the copy now in hand was made,

or certified, together with the total omission of the name of the Ristigouche river, is nevertheless sufficient, with the aid of other collateral authorities, for shewing the precise position of the western extremity of the Baie des Chaleurs, and also that of the mouth or entrance of the Ristigouche river.

In the provincial statute of New Brunswick, 7 Geo. 4. cap. 31, sec. 5. (A. D. 1826) is contained the following enactment, viz :—

Appendix, No. 23. "And be it further enacted, that the town now forming on the southern side of the entrance of the river Ristigouche, within the said county of Gloucester, shall be called and known by the name of "Dalhousie."

Appendix, No. 27. Again, in another statute of New Brunswick, 2 Victoria, cap. 19, sec. 1. (A. D. 1839) the northern limit of the parish of Dalhousie is described as commencing at the mouth of Eel river and "thence following the several courses of the Bay de Chaleurs up to the town of Dalhousie, thence by the several courses of the Ristigouche river, up stream, to the middle of the mouth of Walker's Brook, or Ferguson's Mill stream, so called."

The northern limit of the next ensuing parish of Addington is also therein described as follows, viz :—

"Commencing at the middle of Walker's Brook or Ferguson's Mill stream, in the western boundary of the parish of Dalhousie, thence following the several courses of the Ristigouche river, up stream, to the middle of the mouth of the Upsalquitch river."

The combined evidence, contained in the foregoing authorities, is so perfectly conclusive and condemnatory of Mr. Baillie's statement, concerning the position of the head of the Baie des Chaleurs, that further comment on the subject seems unnecessary, at least as far as may relate to official authorities.

Had popular usage borne out the assumption that the Baie des Chaleurs extended upwards, beyond Campbelltown, that circumstance, although at variance with every official authority, might possibly have afforded Mr. Baillie some shadow of apology for having instituted a search, for the purpose of discovering the true western extremity, and, for the error he committed in afterwards assigning a wrong and impossible position to that point.

Popular usage, however, is unequivocally and diametrically opposed to his statement. In support of this assertion there are three documents inserted in the Appendix to this Report, each of which contains a general and popular description of the Ristigouche river, correctly defining the position of its entrance into Chaleurs Bay, near the site of the town of Dalhousie.

These documents are as follows, viz :—

Appendix, No. 15. 1st.—Description of the Ristigouche river by Colonel Joseph Bouchette, late surveyor general of Lower Canada, (1831.)

Appendix, No. 6. 2nd.—Description of the same by Robert Cooney, of Miramichi, New Brunswick, (1832.)

Appendix, No. 17. 3rd.—Description of the same given at a public lecture, delivered in the city of Saint John, New Brunswick, on the 8th December, 1843.

Each of these descriptions is contradictory to Mr. Baillie's statement.

I can also state, from personal observation, that the inhabitants residing on either side of the Ristigouche, from Dalhousie upwards, never designate the stream by any other appellation than that of "Ristigouche river," and they would, no doubt, be as much surprised at the statement that the Ristigouche river was the Baie des Chaleurs, as an inhabitant of the city of London could possibly be, were he told that the Thames was not a river, but formed part of the German ocean.

It may possibly be alleged on the part of New Brunswick, that the enlargement in the breadth of the Ristigouche, for about 22 miles above Dalhousie, would warrant the supposition that it ought to be considered as forming part of the Baie des Chaleurs for the whole, or, as Mr. Baillie expresses it, for about two thirds of that distance.

It can be easily shewn that no grounds exist to warrant such a supposition, and, were it otherwise, that no possible inference could be drawn from thence which would affect the issue of any questions, now pending, in relation to the position of the Canadian boundary.

By referring to map B, where the Ristigouche river and western part of the Baie des Chaleurs are delineated from actual surveys, it will at once be seen, without reference to other authority, that the Baie des Chaleurs and Ristigouche river are distinctly defined by nature, and that each of them, respectively, maintains its distinctive character to the point of their junction at Dalhousie, the enlargement of the lower parts of the Ristigouche being nothing more than the expansion usually found near the mouths of rivers discharging into tide waters. It has already been shewn that the stream, from Dalhousie upwards, has borne the name of the Ristigouche river uninterruptedly for more than 153 years, which period extends back upwards of 72 years beyond the date of the proclamation, fixing the boundaries of Canada.

These boundaries must therefore have been established in reference to the Baie des Chaleurs as it then was (and still is) distinguished, and it needs no argument to show that were the name of that Bay to be now applied to the river Ristigouche, or any other of its tributary streams, such a change could not possibly have the slightest effect on the construction of any previous descriptions of the boundary line.

A line running "about north" * from the western extremity of the Baie des Chaleurs, as described by Mr. Baillie for part of the eastern boundary line of New Brunswick, must, of course, commence at the true western extremity of the Bay, which is about a mile and a half southerly from the south shore of the Ristigouche river. Such a line would leave the true highlands described in the Proclamation of 1763 and the Quebec Act; and take a course nearly at right angles with them, descend to the valley of the Ristigouche,—cross over the same, passing three miles in its waters, and then ascend, crossing the high mountainous ranges lying northward from the Ristigouche, until it should meet the sources of the streams falling into the St. Lawrence. Map B. "A."

The extreme absurdity of the pretended claims of New Brunswick for a new and extended eastern boundary has already been exposed, but that absurdity is still more striking when the east line, so claimed, is drawn from the true head of the Baie des Chaleurs.

* From Mr. Baillie's map it appears that he intended the magnetical north, which, at the head of the Baie des Chaleurs, is nearly 21½ degrees west of the true north.

The line which by Mr. Baillie's own shewing ought to be a line from the Baie des Chaleurs along highlands, and should bound Canada on the south, "would, if drawn as he proposes, be made to run *"about north"* crossing rivers and ranges of mountains transversely, and forming an *eastern* instead of a northern boundary for New Brunswick, and a *western* instead of a southern boundary for Canada.

Map B.

It is also worthy of remark, that such a line, if produced, would still leave the greatest part of the town and part of Dalhousie, and the entire mouth or entrance of the Ristigouche river, within the limits of Canada.

It was, no doubt, in consideration of this latter fact, as well as to avoid the anomaly of carrying the proposed line across the Ristigouche, that Mr. Baillie attempted to move the head of the Bay up to near Mission Point, on the *north side* of the Ristigouche river, though doing so had the effect of lessening the pretended claim of New Brunswick on the territory of Canada, by about 460,000 acres, that being nearly the area of the tract contained between a line drawn from the true head of the Bay, and that shown by Mr. Baillie on his map. The spot particularly defined by Mr. Baillie as being "a little to the eastward of Mission Point, on the north side of the Baie des Chaleurs" about a mile above Campbelltown," and selected by him as the *western extremity* of the same bay, is certainly as inappropriate a point, to select for that distinction, as could well be found on the Ristigouche river. Had a point been taken about five miles further up the stream, it would at least have had the comparative merit of being that, where the river becomes finally reduced to its general breadth—or, had it been selected a little below Campbelltown instead of a mile above that place, it would then have been at the western limit of a considerable bay, or enlargement in the Ristigouche river. But, there is not *one* marked local feature characterizing the spot discovered by Mr. Baillie, and by him declared to be the western extremity of the Baie des Chaleurs.

Map D.

About a mile and a half above Campbelltown, the channel of the river suddenly contracts in width to about one third of its previous dimensions.

The strait caused by this contraction continues downwards to a point, a very short distance below Campbelltown, where the river again expands to a more considerable width than before. The northern shore of the river, along this strait, extends in nearly a uniform and direct course and the land on the shore, and for some distance back, is an even and level plain. It was on this strait near its *upper* extremity and on the nearly straight line of shore above described, that Mr. Baillie found the spot that "*nature had so strongly marked*" as in his opinion "*to leave no opening for discussion or difficulty*," as to the certainty of its being the true *western extremity* of the Baie des Chaleurs. From the precise nature of Mr. Baillie's description of this spot, "*about a mile above Campbelltown*" and "*a little to the eastward of Mission Point*," its position cannot be mistaken; but, when on the spot, we seek in vain for any one natural mark or feature corresponding with Mr. Baillie's statement.

Map F.

Map B.

There is however, one naturally marked point a short distance *above*, and another about a mile *below*

* The extract from the Quebec Act given by Mr. Baillie, in his report, is so mutilated that it conveys no description of the *direction* of the southern boundary of the Province of Quebec. He merely cites so much of the description, as shews that the line extends from the Baie des Chaleurs along certain highlands, leaving us in the dark as to the point to which the line is directed, and consequently of its required direction, all of which are contained, however, in the description he has thus partially quoted.

Mr. Baillie's position, the first being the *eastern* end of a small bay, or expanded section of the river, and the second forming the *western* limit of a similar portion of the stream.

Had Mr. Baillie adopted this latter point for his assumed head of the Baie des Chaleurs, his Report would have been divested of some part of the peculiarity attached to it as it now stands, this point having at least the distinction of being the naturally marked western end of one of the enlarged portions of the Ristigouche river.

It is probable that Mr. Baillie himself became aware of the unfortunate selection he had made for the position of the head of the Baie des Chaleurs, as, in the official and lithographed copy of the map accompanying his report, as it appears with other documents relating to the boundary, printed by order of the New Brunswick assembly, the "*starting point*," for the line running "*about north*," is carried from the position first described, above a mile to the eastward, down the Ristigouche, to the precise point above mentioned, at the western end of one of the enlarged portions of the Ristigouche river.

No. 4.

General description of the several localities designating the position of the southern boundary line of Canada, &c. &c.

The mouth or entrance of the Ristigouche river into Map B. the Baie des Chaleurs is on the northern coast of the Bay, very near the western termination of the latter. The Bay itself extends a short distance to the west of that position, its western coast forming a curve, like a segment of the periphery of a circle, the two ends of which incline to the eastward. From the upper or western side of the mouth of the Ristigouche river it is about $3\frac{1}{2}$ miles, on a south course, to the opposite and southern shore of the Bay, and from the northern side of the same it is about $4\frac{1}{2}$ miles, in the same direction, to the opposite coast.

The point constituting the true *western extremity* of the Baie des Chaleurs, must, of course, be that point in the curve, formed by its western coast, which would be touched by a tangent, drawn in the direction of the true meridian.

This point, according to the best and most authentic surveys, is situated rather more than a mile and a half, southerly, from the Ristigouche river, as represented on the accompanying map B.

At this point, immediately on the very coast of the Baie, is the commencement of a high and well defined range of hills, extending from thence to the westward and seeming, when viewed from Dalhousie and other places along the Ristigouche, to form an almost impassable barrier between the lands adjoining that river and the territory lying further to the south.

This part of the highland range cannot be better described than in the words of two writers, of the Province of New Brunswick, the first of whom remarks that from Eel river, "to the entrance of the Ristigouche, the shore is a continuation of almost perpendicular cliffs, towering nearly a hundred feet above the level of the sea." Appendix, No. 16.

The second writer alluded to, who is, I believe, a resident of St. John's, N. B., describes the range more minutely as follows, viz:—

Appendix, No. 17. "There is a high ridge of trap rock separating Eel river from Dalhousie, called *Charlefort's Hill*, which is very abrupt on the Eel river side and sloping, towards the Ristigouche. At the base of the slope is the town of Dalhousie."

Map B.

It may be added that the eastern extremity of this highland ridge, on the side adjacent to the Ristigouche river, terminates in a point extending a considerable distance into the Bay, near some massive detached rocks, called *Bon Ami's Rocks*.

Map A.

From the Baie des Chaleurs, this range extends westwardly for about 12 miles, in a course nearly parallel with that of the Ristigouche river, and then trending round southwardly, continues in that and a generally southwestern direction,—still constituting the line of dividing highlands, until it reaches the western line of New Brunswick, near Mars Hill.

Appendix, No. 33 and 34.

From that point the same highland range continues, as repeatedly defined on the part of the British government, through a section of what now forms part of the state of Maine, meeting and coinciding with the north-western line of the same state near the Metgermette Portage. From thence, the highland range continues, actually constituting the southern boundary of Canada, and conforming literally to the terms of the original description of that boundary, by throwing off the Saint Lawrence waters on the one side, and those falling into the sea, or *Atlantic Ocean*, (for these terms may be used indiscriminately for all purposes connected with the description of the entire southern boundary of Canada) on the opposite side, until it reaches that source of the Connecticut river, which, by the treaty of Paris, afterwards explained by the treaty of Washington, was to become the line of boundary down to the parallel of the 45th degree of north latitude.

Appendix, No. 32 and 10.

Page 4, *et seq.*

The grounds upon which Canada maintains this range of hills to be the highlands mentioned in the proclamation of 1763, and the Quebec Act, have already been fully explained in other parts of this report, but it may not be out of place to add some few observations, for shewing the fallaciousness of the objections made to such a conclusion.

These objections are founded on the assumption of an impossibility, viz : that the boundary line must of necessity be made to pass, from the sources of the Connecticut river to the head of the Baie des Chaleurs, along highlands which throughout their whole extent, should divide the sources of the Saint Lawrence waters from the sources of streams discharging themselves into the Atlantic.

The language of the proclamation of 1763, states that the line, "crossing the river Saint Lawrence and the lake Champlain in 45 degrees of north latitude, passes along the highlands which divide the rivers that empty themselves into the said river Saint Lawrence from those which fall into the sea, and also along the north coast of the Baie des Chaleurs and the coast of the gulf of Saint Lawrence to Cape Rosier, &c. &c."

Page 4, *et seq.*

When we bear in mind that it was not possible for the framers of the proclamation to imagine that any highland range could actually divide the Saint Lawrence and Atlantic waters quite up to the Baie des Chaleurs, it becomes obvious that no such continuity of highlands, having at every point of their extent that specific character, was ever intended to be described in the proclamation.

There are merely points or disjunct portions of the boundary described, from lake Nipissim to the north

coast of the Baie des Chaleurs, the disjunct portions so described, seeming, however, to indicate the general direction and position of the boundary.

It is stated in the proclamation that this line "passes along the highlands, &c., and *also* along the north coast of the Baie des Chaleurs," whereas, had it been intended to imply that such highlands and the north coast of the Bay were actually conterminous, the words used in the description should have been "along the highlands, &c., to the north coast of the Baie des Chaleurs," or language to that effect, which language, however, was not adopted.

The description of the same boundary, contained in Appendix, No. the Quebec Act, commences at the Baie des Chaleurs³² and is similar to that of the proclamation, until it reaches the vicinity of Connecticut river, far to the west of the limits of New Brunswick. If any ambiguity were supposed to exist in regard to the proper construction of those descriptions, that is, the construction intended by their framers,—or that, as generally received at or near the periods at which they were respectively framed, we have abundant authority to bring forward which must remove every possibility of doubt on the subject.

The northern boundary of Nova Scotia, described in Appendix, No. the commission to Montague Wilmot, less than two months after the date of the Royal proclamation, declares that the point, where the Canada boundary leaves the Baie des Chaleurs, is at the western extremity of that Bay.

Again, in the original descriptions of the counties of Appendix, No. Northumberland and York, in the Province of New Brunswick, parts of the southern boundary of Canada³³ are alluded to disjunctly and in terms which clearly³⁴ prove that the line, as then understood, could not extend across the Ristigouche or in any wise to the northward of the head of the Baie des Chaleurs, but on the contrary, that its course from that Bay was then admitted on the part of New Brunswick to be south-westerly, as it has ever been maintained to be by the Province of Canada.

The dates of the authorities above mentioned are respectively as follows, viz :—

1st.—Royal Proclamation, 7th October, 1763.

2nd.—Commission to Montague Wilmot, esquire, 21st November, 1763.

3rd.—Quebec Act, 22d June, 1774.

4th.—Letters Patent setting off the county of Northumberland, 10th June, 1785.

5th.—Letters Patent setting off the county of York, 25th July, 1785.

The concurrent testimony of the foregoing authorities shows conclusively, that the line claimed by Canada is the line originally intended by Great Britain, for the southern boundary of the Province.

But, when in addition to those authorities we recur to the fact, that the range of highlands, which from the sources of the Connecticut river to the Metgermette portage, actually divides the sources of the Saint Lawrence and Atlantic waters, still continues in a north-eastern direction, and finally terminates at the western extremity of the Baie des Chaleurs, being the only range of highlands extending to that point; when we also remember that Great Britain always maintained that the southern boundary of Canada extended

north-easterly from the Metgermette portage along the same continuation of this highland range,—the conclusion becomes inevitable,—that the line from the head of the Baie des Chaleurs to near Mars Hill, is demonstrably part of the line defined by Great Britain in 1763 and 1774 as the southern boundary of the Province of Canada.

No. 5.

Remarks on Dr. Gesner's Report in relation to the Boundary Line between Canada and New Brunswick, made the 29th September, 1842.

The Report of Dr. Gesner concerning the unsettled boundary of Canada and New Brunswick, is marked "No. 3" in the list of documents communicated by the Lieutenant-Governor of New Brunswick to the House of Assembly of that Province on the 16th February, 1844.

It is mostly taken up with descriptions of the Ristigouche river and its tributary streams, including also the adjacent territory on the Canada side, and parts of the district of Gaspé, along the Baie des Chaleurs.

The contents of such portions of his Report as relate to the provincial boundary may be reduced to two heads, viz :—

1st.—The assumption, on the part of Dr. Gesner, that if the main Ristigouche river be the boundary between the Provinces, such boundary would have to follow the Tomkisuac, or, as it is designated by him, the "Peotamedgewee" river, that tributary of the Ristigouche being larger than the Ristigouche itself, at the point of their junction.

2nd.—Dr. Gesner's declaration, that in his opinion "since the happy termination" of the dispute, in relation to the boundary between Great Britain and the American government "the range of mountains separating the rivers that flow into the Saint Lawrence from those that flow into the Baie des Chaleurs, the Ristigouche and Saint John, will form the best divisional line between the Provinces."

The first of the above heads is a subject upon which very little is required to be stated, for shewing its utter irrelevancy to the subject of the difference now pending.

It is evident, and will no doubt be admitted on the part of both Provinces, that the channel of the Ristigouche river is *not* a range of highlands, and therefore cannot form the boundary line described in the Quebec Act.

But were it otherwise, and were the Ristigouche declared by competent authority to be the true boundary between Canada and New Brunswick, it would still require no argument to prove that the Tomkisuac river is not the Ristigouche river, whatever may be the relative dimensions of the two.

It is true that the Tomkisuac is the wider river, at the point of its confluence with the Ristigouche, and this fact, so far from being a new discovery, was a matter of notoriety many years since among those acquainted with that section of the country, although it is probable that Dr. Gesner might not have been aware of the circumstance.

The Ristigouche river has been known and distinguished by its present name for more than 150 years, and there are official surveys of it, from its mouth at Dalhousie up to the due north line traced from the river St. Croix, which are recorded in the office of the Surveyor General of New Brunswick, all assigning to it, its then and present designation of "Ristigouche river."

The general course of the Tomkisuac river is nearly at right angles to that of the Ristigouche, as may be seen by reference to the map. It falls into the Ristigouche river about 25 miles (measured along the latter) below the due north line from the Ste. Croix, and 85 miles above its mouth at Dalhousie.

It is obvious that this additional attempt on the part of New Brunswick to change the designation of a part of the Ristigouche river, like the attempt already disposed of, where the commissioner for New Brunswick had declared that the Baie des Chaleurs extended 17 miles up the lower part of the Ristigouche,—cannot be allowed to operate to the prejudice of the pre-existing and distinct rights of Canada.

It may indeed be competent for the authorities of New Brunswick to *now* proceed to change the terms used in all their former and present documents relating to those parts of the Ristigouche river, calling those portions by new names, and, in conformity to such a proceeding, to remodel their land patents, acts of parliament, maps, plans and diagrams, and even to cause the same to be done in private contracts and other written documents within the limits of their jurisdiction. All this, however, if carried into effect would be perfectly innocuous in regard to any previous rights or claims which been defined, with relation to the original and present name of that river, as its identity would still remain, and the name by which it was distinguished at the date of such definition must be the only one which could by any possibility be referred to, in discussing such rights or claims.

In examining the second part of Dr. Gesner's Report, before referred to, it will be necessary to consider what weight should be attached to the arguments or authorities adduced, in support of his expressed opinion in regard to the position of his proposed boundary line.

These may be summed up in the three following statements contained in Dr. Gesner's Report, viz :—

1st.—That the boundary he had proposed would form the best divisional line "since the happy termination" of the late boundary disputes between Great Britain and the United States.

2nd.—That the boundary so proposed by him would give to each Province all the rivers that flow and open into their respective districts, and would agree with the physical geography of the country.

3rd.—That the remoteness of the district of Gaspé, from the seat of government in Canada, has an injurious effect upon its civil and moral institutions.

It is difficult to imagine the process of ratiocination adopted by Dr. Gesner, (for he has not explained it) in arriving at his conclusion that "the happy termination" of the disputes with the United States concerning their boundary, constitutes an argument in favor of the dismemberment of Canada, and the annexation of a large portion of Gaspé, Bonaventure and Rimouski to New Brunswick.

Certain it is that the line he has defined from Cape Rosiers, along the sources of the streams falling into the

Saint Lawrence cannot coincide with the American line, but, if produced, would end 67 miles to the north of the latter, at their respective terminations on the due north line from the source of the Saint Croix, which forms the western limit of New Brunswick.

As there would be so great a discrepancy between the American line and that proposed by Dr. Gesner, it follows that the inference he was pleased to draw in favor of his proposition, from the *happy termination* of that boundary question, is not founded on the *position* recently agreed upon for the American boundary.

The most obvious conclusion, therefore, arising from Dr. Gesner's assumption that the extension of the limits of New Brunswick had become advisable *since the happy termination* of the American question, would seem to be that he labored under the extremely erroneous impression, which also appears to have been adopted by every other public functionary of New Brunswick when treating upon the same question, that Great Britain could not act openly in settling the boundaries of these Colonies during the pendency of her difference with the United States, without prejudice to the claims she then maintained against that government.

Page 1, of seq.

It has already been shewn, and need not now be repeated, that such an assumption, involving the conclusion that Great Britain had acted in bad faith towards the United States for more than half a century, is unsubstantiated and wholly at variance with facts, every act of the imperial government in relation to the Canada boundary, as well as the documents under the Great Seal of the Province of New Brunswick, establishing the first subdivisions of that Province, having been uniformly consistent in referring to the same line of boundary, extending along the range of highlands from the Baie des Chaleurs to the sources of the Connecticut river. Such is the boundary described in the Proclamation of 1763; in the Quebec Act of 1774; in the British argument with the United States, and in the present statement of the claims of the Province of Canada.

Dr. Gesner's second ground of support for his proposed line from Cape Rosiers and along the highlands extending from thence westwardly, is that "such a line would give to each Province all the rivers that flow and open into their respective districts and would agree with the physical geography of the country."

It cannot be necessary to oppose any argument to this statement, which were it admitted to be correct, could not have the most remote bearing on the questions now pending between the two Provinces.

The southern boundary of Canada, along the district of Gaspé and the lower part of Bonaventure, is established by imperial authority to be the north coast of the Baie des Chaleurs, which has an indisputably defined position, never called in question since the first discovery of that Bay by Jacques Cartier, in July, 1534.

To the west of the Baie des Chaleurs, the boundary line, declared by the same authority, follows the well defined range of highlands, extending towards the south-west, which certainly conforms to the physical geography of the country, in giving to each Province the streams rising within its limits, unless indeed, we except the river Saint John, which takes its rise in the United States, and consequently, must be intersected by the external boundaries of New Brunswick in either case.

The third and last of Dr. Gesner's arguments, in favor of annexing so large an extent of Canadian territory to the Province of New Brunswick, is derived from the injurious effects on the civil and moral institutions of the country, alleged by him to be consequent upon the distance of that territory from the Canadian seat of government.

This he has illustrated by a special statement in which he avers that on the Canadian side of the Ristigouche, *where it is inhabited*, for a distance of 70 miles "no statute labour nor militia duty is performed, nor taxes paid, and every man is governed by his own opinion of what is right and wrong."

The object of the present investigation concerning the southern boundary of Canada, is not the establishment of a *new* and conventional boundary line, but is confined to the acquisition of such information and authorities, as may be necessary for removing the doubts which have hitherto been supposed to exist, in regard to the local application of the language used in the concurrent descriptions of that boundary, as contained in the Royal Proclamation of 1763, and the Quebec Act.

Those descriptions, however, do not make the position of the southern boundary line of Canada contingent or dependent on the number of magistrates appointed along the Ristigouche river, or the amount of statute labour, or militia duty, performed there, and, consequently, Dr. Gesner's statements in relation to those subjects can have no connexion whatever with the boundary question.

Dr. Gesner's Report, in point of fact, is merely an expression of his private opinion in favour of an arbitrary boundary between the Provinces, extending westwardly from Cape Rosiers, (as he has stated,) "*according to the ancient charter of Canada.*"

Of this "ancient charter of Canada," I have never before heard mention, but if any such document is in existence, which is very much to be doubted, it is, of course, superseded by the Royal Proclamation of 1763,

* The above account of the southeastern part of Canada, and the state of its civil institutions, as given by Dr. Gesner, is certainly a most curious statement to introduce into a document concerning the position which should be assigned to the southern boundary of Canada,—a question which can only be solved by reference to the written authorities in which the boundary line was first defined, more than eighty years ago.

But as these statements, however inapplicable to the boundary line question, were made in a report prepared at the instance of the Lieutenant-Governor of another Province, and were by him laid before the imperial government without reference to the government of Canada, I feel bound to give such information as will serve to correct the erroneous impressions they are calculated to create, among persons not acquainted with the actual state of the country under consideration. In the year 1836, since which time there has been very little addition to the population along the north side of the Ristigouche, the scattered, but nearly connected settlements along the northern shore only extended about 41 miles upwards from the mouth of the river at Dalhousie. Proceeding upwards from the end of these settlements, and passing an interval of 44½ miles of unbroken, primitive forest, there was another settlement, if such it can be termed, extending three-fourths of a mile along the river, and consisting of *THREE families only*, this latter settlement being on both sides of the entrance of the Tonkissene river, and the last and highest on the Ristigouche.

As Dr. Gesner has not seen fit to particularize the section of the Ristigouche, along which he had found 70 miles of settled country with only one magistrate and where the inhabitants lived beyond the reach of law or civil government, we are left to form merely conjectural conclusions on that subject. It is, however, evident that this section of 70 miles cannot be taken from Dalhousie, upwards, as the settlements terminate 41 miles above that point, leaving 29 miles of unsettled country to complete his entire distance of 70 miles. Equally evident is it, that those 70 miles cannot be made to extend down-

where the eastern part of the Canada boundary is described as passing "along the north coast of the *Baie des Chaleurs* and the coast of the gulf of Saint Lawrence to Cape Rosiers, and from thence crossing the mouth of the river Saint Lawrence by the west end of the Island of Anticosti, terminates at the aforesaid river Saint John."

The proclamation abovementioned and the Quebec Act of 1774, which are the sole authorities to be consulted in defining the boundaries of the eastern part of Canada, are, however, never mentioned, nor is the slightest allusion made to them, in any part of Dr. Gesner's Report. This omission must certainly appear very surprising unless we adopt the supposition that it was the object of the authorities of New Brunswick to induce the imperial government, by *ex parte* representations, to establish a *new boundary line*, setting aside the rights of Canada, and dismembering the Province, for the purpose of adding large portions of her territory to that of New Brunswick.

Such a conclusion is, indeed, inevitable from the general tenor of the documents brought forward on the part of New Brunswick in support of her pretended claims, and that such was the construction then put upon those documents by the British government is evident from the language used by the Right Honorable Lord Stanley, Her Majesty's Secretary of State for the colonies, in a dispatch of the 25th of October, 1842, to the Lieutenant-Governor of New Brunswick, in which his lordship, after acknowledging the receipt of the dispatch containing Dr. Gesner's Report and other enclosures on the same subject, adds the following remarks:—

"I concur with you in thinking that it will be desirable to ascertain with precision, and to define in a recognised manner, the line of separation between the adjoining British Provinces; but for this purpose it will be requisite to consult, in the first instance, the Governor General of Canada."

wards from the due north line, as such a section would only include *three-fourths* of a mile of settlement, consisting of *three families*, in the whole distance. The most reasonable supposition would therefore seem to be, that Dr. Gesner intended his remarks to apply to the section of the Ristigouche which extends from nearly opposite Campbelltown, up to the entrance of the Tonikieuc river.

This would include 70 miles along the Ristigouche, with settlements at either extremity, the extent and character of which may be thus described, viz:—

	Extent.
1st.—First settlement of three families near the entrance of the Tonikieuc river, on ungranted Crown lands.....	0½ miles.
2nd.—Succeeding unsettled interval descending the Ristigouche	4½ do.
3rd.—First part of the lower settlements, extremely scattered, and merely skirting the river, on ungranted Crown lands.....	1½ do.
4th.—Residue of lower settlements, extending from the entrance of Matapedia river to near Campbelltown, a scattered settlement along the river a part of which is on granted lands.....	12¾ do.
Whole distance.....	70 miles.

It thus appears that in 1836, in the 70 miles of settled country mentioned by Dr. Gesner in 1842, there were nearly 45 miles of forest, or a trifle less than *two-thirds* of the whole, in one block; that there were only 24½ miles of continuous settlement, of which distance 1½ miles contained only a few scattering families, settled at random by the river side on the waste lands of the Crown, leaving only 12¾ miles in the 70 coming within the surveyed and partially granted part of that section of Canada, where the settlements, thinly scattered as they were and still are, could possibly be considered of sufficient magnitude to warrant the appointment of magistrates or militia officers among them.

"I have therefore to direct you to place yourself in communication with Sir Charles Bagot on this subject, and to abstain from adopting any proceedings which are indicative of your intentions, in respect to a *new boundary line*, until you are fully acquainted with his views."

No. 6.

Remarks on a Report concerning the disputed boundary line, made by John Wilkinson, Esquire, Deputy Provincial Surveyor of New Brunswick.

Mr. Wilkinson's Report is, on many accounts, more worthy of consideration than any other document brought forward on behalf of New Brunswick, for the purpose of sustaining her pretended claims to parts of the territory of Canada.

His statements concerning the local statistics of parts of the disputed territory, which he had explored by order of His Excellency the Lieutenant-Governor of New Brunswick, may be relied on for their accuracy, and, the course of reasoning adopted by him, although founded on merely assumed grounds, which will hereafter be shown to be erroneous, is certainly very ingenious and worthy of having been applied to a cause resting on a more solid foundation.

1st.—This report commences with raising the question, whether a claim for the restoration of the ancient limits of Nova Scotia (from the river Chaudière along the south shore of the river Saint Lawrence to Cape Gaspé) might not be revived, in virtue of the clause in the Quebec Act, that nothing therein contained should in any wise affect the boundaries of any other colony.

The consideration of this question is not carried on by Mr. Wilkinson, but is left open, apparently with the view of attempting to found another claim upon it, in favor of New Brunswick, at some other period.

2nd.—The next succeeding pages of Mr. Wilkinson's Report are taken up in attempting to prove the possibility or plausibility of the supposition, that the southern boundary of Canada was originally intended to extend from the head of the Baie des Chaleurs, northwardly, passing beyond, or along the sources of all streams falling into the Ristigouche river, to the sources of those which fall specifically into the river Saint Lawrence, and thence along the latter south-westerly to the source of the River Saint John, the latter point being supposed by Mr. Wilkinson, in this case, to form the former north-west angle of Nova Scotia, as described or referred to by the American Commissioners in framing the treaty of 1783.

3rd.—In the remainder of his Report Mr. Wilkinson gives some valuable information concerning the topographical features of parts of the disputed territory, and proposes sundry other lines, as being more desirable to adopt for the boundary, in regard to the interests of New Brunswick, than that line which he had previously defined.

In commencing the consideration of this Report in detail, we come first to the question concerning the revival of a claim for the supposed ancient limits of Nova Scotia.

The original grant, by the British Crown, of the territory first called Nova Scotia, as made to Sir William Alexander in 1621, included large sections of country then belonging to a foreign state, and was, in consequence,

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quence, a mere nullity as far as the possessions of such foreign state then extended. It was only after a lapse of 142 years, from the date of this grant, that Great Britain finally came into possession of all the territory included in the original description thereof, and for many years prior to this, all rights supposed to have been created by the grant of Nova Scotia, had ceased to exist, and have never since been revived, or recognized by the British government.

This may be rendered evident by simply referring to some of the facts connected with the former history of that section of the country, and I therefore subjoin a list in chronological order, containing the dates and enumeration of sundry public acts, which, of themselves, will prove the utter impossibility of *now* instituting any claims for restoring the supposed ancient limits of Nova Scotia.

A. D.

1621.—Nova Scotia granted to Sir William Alexander.

1622.—Sir William Alexander despatches a number of emigrants to Nova Scotia who do not establish themselves.

1623.—Sir William Alexander's settlers return to England.

1624.—Order of Knights Baronet of Nova Scotia founded by Charles 1st of England.

1629.—Nova Scotia, with the exception of Port Royal, conveyed by Sir William Alexander to Claude de La Tour.

1632.—Treaty of Saint Germain by which Nova Scotia, Cape Breton and Canada were restored to France.

1634.—Sundry grants of land in Nova Scotia made by the Crown of France to Charles Etienne de La Tour.

1638.—The King of France assigns all that part of Acadia or Nova Scotia, lying to the west of a line drawn from the centre of the Bay of Fundy to Canseau, and south of the parallel of the 46th degree of north latitude, to La Tour.

1656.—Grant made by Oliver Cromwell to Sir Charles de La Tour, of certain portions of Nova Scotia.

1667.—Treaty of Breda, Acadia again ceded to France.

1691.—Charter of William and Mary, annexing Acadia or Nova Scotia to Massachusetts.

1696.—Treaty of Ryswick; Acadia again restored to France.

1713.—Treaty of Utrecht; Acadia according to its ancient limits ceded to Great Britain.

1763.—Definitive treaty of peace between the Kings of Great Britain and France, by which Nova Scotia or Acadia, Canada, &c., were finally ceded to Great Britain.

It thus appears that the original grant of Nova Scotia, besides being of no effect in regard to a considerable part of the comprised territory, which then actually belonged to the Crown of France and formed part of Canada, was cancelled only eleven years after its date, by the cession of all the territory it embraced to France, by the treaty of Saint Germain.

We see, since that period, that different grants of tracts, comprehended in the originally described limits of Sir William Alexander's grant, have been made by the Crown of France.

We also see that when Great Britain came temporarily into possession of the same tracts, on two subsequent occasions, she did not attempt to renew this grant as at first defined, but in the first case, she granted a portion of it in a tract of quite a different description, and, in the second, she annexed the whole to another Province.

These latter acts of Great Britain, like the original grant of Nova Scotia, were respectively superseded and set aside by cessions of the included territory to the Crown of France, and, when by the treaty of Utrecht, Great Britain finally obtained the cession of Acadia according to its ancient limits, the territory so ceded *did not extend to the Saint Lawrence river, but terminated on the parallel of the 46th degree of north latitude.*

The original grant of Nova Scotia, therefore, never conveyed to that Province a shadow of title to any part of Canada as then bounded, the southern limit of the latter along the Acadian territory, being at that time much farther to the south than the present southern line of Canada, and, the entire grant became null and void by the treaty of Saint Germain, when that part of the country was restored to France.

It would certainly have been competent for Great Britain to have revived and restored the supposed ancient limits, which she had originally assigned to Nova Scotia, when, after the definitive treaty of peace in 1763, she was left in full and undisputed possession of all the eastern parts of the North American continent.

This, however was not done.—Great Britain took the more noble part of giving such boundaries to Canada as would include within their limits, as far as possible, all the old French Canadian grants and settlements, securing to the inhabitants, at the same time, the full enjoyment of their religion, their laws, and their social usages.

The case was different in regard to the Acadian settlements. These had already been repeatedly in the possession of Great Britain, and the few inhabitants remaining there, after their dispersion in September, 1755, formed only a small remnant, of which a portion then bore allegiance to the Crown of England.

We accordingly find that on the Canada side of the boundary line, as already defined in preceding parts of this Report, all primitive grants of land, made by the French government, have been recognised and maintained by the Crown of England, while, on the contrary most, if not all of the old French grants in Nova Scotia, including the present Province of New Brunswick, have been set aside, and the lands so granted annexed to the domain of the Crown.

Among the French grants in Canada, still held in virtue of their original titles may be mentioned the Fiefs or Seigniories of *Cloridon*, *Lake Matapediac*, and *Madawaska* and *Lake Temiscouata*, the former having, indeed, been acquired by the Crown, but by the *Royal droit de retrait*, which amounts to a *bona fide* purchase from the previous proprietor.

All these seigniorial grants are included in the part Map A. of Canada now claimed by New Brunswick. But it was not only the *northern* boundary of the then new Province of Nova Scotia to which a new and restricted position was assigned. Great Britain had always main-

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2.

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1, 4, 8,
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12.

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12.

Map

tained, that by the river Saint Croix, as mentioned in Sir William Alexander's grant, was intended the Pentagoet or Penobscot river, which, in common with other streams in that vicinity, had formerly borne the same title.

Appendix, No.
2.

In the descriptions of the western boundary of the new Province of Nova Scotia, given in the commission to Montague Wilmot, dated 21st November, 1763, the above claim in relation to ancient Nova Scotia was specially referred to, but at the same time, the western limit of the new Province of the same name was expressly restricted to the true Saint Croix river, up to its source, and by a line drawn due north from thence, to the previously defined southern boundary of Canada.

The present western boundary of New Brunswick was therefore, expressly and advisedly, established in 1763, by competent authority, not at the western limit of Sir William Alexander's grant, but considerably further to the eastward.

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1, 5, 8, 9 and
10.

There were some difficulties met with in finally deciding on that particular branch of the Saint Croix, from the source of which the due north line was to be traced, but all those difficulties have been settled and a north line is now definitively established, forming the division between the British possessions and the territory of the state of Maine, up to the place of its intersection with the river Saint John, about 35 miles to the northward of the true northern boundary of New Brunswick.*

1st.—It is thus rendered completely evident that the original grant to Sir William Alexander, *never* could have conveyed any right, to the north of the 46th degree of north latitude

2nd.—That every right derivable from that grant was utterly and for ever cancelled (unless otherwise renewed) in 1632, only eleven years after its original date.

3rd.—That many recognized mutations of sovereignty, as well as of individual tenure of the same territory, have also occurred since the treaty of 1632, which of themselves, would have entirely extinguished every claim growing out of the original grant of 1621, had any such claim or claims still remained in existence.

* The selection of the northern instead of the western branch of the Saint Croix for the boundary has been loudly condemned by many, particularly by the people of New Brunswick, who maintain that the western branch should have been taken, because the westernmost source or spring of a river called the Saint Croix, was mentioned in the grant to Sir William Alexander. I must be allowed to express my entire dissent from such a conclusion, and the reasons urged in its support. The former limits of Sir William Alexander's grant, as has been shown, are not the limits subsequently assigned to the Province of Nova Scotia, (including New Brunswick,) nor can the former be in any wise referred to, for defining the position of the latter.

Besides, as the boundary line, of which the river Saint Croix from its mouth to its source, forms a part, was to be a western and an eastern boundary respectively, to the continuous possessions of Great Britain and the United States, it was certainly more reasonable to adopt the branch of the river extending in a northern and southern direction, than to have taken another branch running transversely to the general course of the boundary, which would have formed a southern and northern instead of a western and eastern boundary for the respective possessions of the two powers. There have been many discordant authorities cited for showing the distance between the respective meridians of the northern and western sources of the Saint Croix, a few of which I here subjoin, reminding that the first and second, derived from actual surveys, are the most to be depended on.

The distances, contained in the first column, are taken from the several authorities referred to, and apply to the latitude of the Schoodic lakes, or western branch of the river.

From these considerations, and those which precede them, the inevitable conclusion is, that there is not a shadow of support for the continually repeated assumption of Mr. Wilkinson, and others, on the part of New Brunswick, that the position of the western boundary line of that Province is still unsettled and should now be established according to one of the many descriptions in the several private grants, formerly made of the same section of the country, the particular private grant, to which they now refer, having been rendered void and non-existent for more than two centuries.

It can hardly be necessary to follow Mr. Wilkinson throughout his argument concerning the position of the southern boundary of Canada, that subject having already been considered at length in this Report.

A brief review, however, of some of the most prominent grounds adduced in support of the conclusions adopted by him, may not be out of place, as it is the only instance where the semblance of argument has been attempted, on behalf of New Brunswick, in defence of her extended claims.

Mr. Wilkinson's main grounds of argument consist in the assumption that Great Britain had tacitly or directly admitted that the boundary of the Quebec act was, as asserted by the Americans, along the northern range of highlands: that a "document, reported to have been recently found in Paris, relating to the line of the treaty of 1783," more than corroborated that view of the question, and, lastly, that a striking consequence of the above exposition was, that the north-west angle of Nova Scotia, named in the treaty of 1783, would exactly coincide with that specified in the original American proposition at the commencement of the negotiations, that is to say, at the source of the river Saint John.

Upon this curious foundation does Mr. Wilkinson propose to establish a territorial claim on behalf of New Brunswick.

The assumption that Great Britain had admitted, indirectly or otherwise, that the descriptions in the Proclamation of 1763 and the Quebec Act, might apply to the northern range of highlands, extending from Cape Rosiers to the westward, is utterly unfounded and can easily be disproved.

I have added a column, showing the convergence of meridians from the Schoodic lakes to the river Saint John, and another containing the reduced distance at the latter point.

Numbers.	AUTHORITIES CONSULTED.	Distance at the Schoodic lakes.		
		Distance at the Schoodic lakes.	Convergence of meridians from Schoodic lakes to the river Saint John.	Distance at the river Saint John.
		Miles.	Miles.	Miles.
1	British Official Map A, as compiled from actual Surveys, (1857).....	18,40	0,62	17,78
2	American Map of Maine, from actual Surveys, (1844).....	18,35	0,65	17,73
3	Official Map of New Brunswick, by the Surveyor General of that Province, (1842).....	17,80	0,60	17,30
4	Map of the British Commissioners, Messrs. Mulge and Featherstonhaugh, (1839).....	17,40	0,59	16,81
5	American detached plans of Surveys according to measures of given lines thereon.....	16,67	0,56	16,11
6	American detached plans of Surveys, according to the given scale of the same.....	16,00	0,54	15,46
7	Official Map by Wm. F. Odell, then a Surveyor of New Brunswick, (1821).....	8,70	0,30	8,41

In some periods of the former discussions with the government of United States, the agents of Great Britain did indeed deny the right of the other party to refer to the descriptions contained in the Proclamation and Quebec Act, as well as to those of former provincial subdivisions of territory, then forming part of the United States, as authorities in the arguments then pending, contending that the treaty of 1783 should be construed peremptorily, and only in reference to the language therein contained.* But, at the same time, so far from implying that the southern boundary of Canada should pass along the northern range of highlands, Great Britain maintained the contrary in the most unequivocal and positive manner, as may be seen by referring to her statements in relation to the Fief of Madawaska.

Appendix, No.
7 and 30.

Great Britain, therefore, never denied the coincidence of the line she claimed against the United States with the corresponding part of that which she had formerly defined for the southern line of Canada, although, at one period of the discussions concerning the American boundary, she objected to the arguments purporting to be founded on such coincidence or identity of the two lines as irrelevant, on the ground, as before observed, that the treaty of 1783 was intended to be construed peremptorily, without reference to other authority.

Appendix, No.
30.

But, on acquiring a more perfect knowledge of the features of the country, the Royal commissioners, employed on the same boundary question, fully proved, in their valuable and practical Report, that the boundary of the Proclamation and Quebec Act passed altogether to the south of the Ristigouche river, and that the line which ought, under the treaty, to have been the northern boundary of part of the United States, was identical with a section of the southern boundary of Canada.

It cannot be necessary to follow Mr. Wilkinson's argument any farther. It has been shown that New Brunswick cannot be made to extend to the westward of the meridian of the source of the Saint Croix river.

It has also been shown that New Brunswick cannot extend to the northward of the highland range proceeding from the head of the Baie des Chaleurs to the sources of the Connecticut river; and it cannot be necessary to enter into an argument to prove that "the document reported to have been found in Paris," whether existent or non-existent, can constitute no authority for construing the descriptions in the Royal Proclamation and the Quebec Act.

The various boundary lines proposed by Mr. Wilkinson as conventional boundaries, or lines of convenience, having been suggested on the assumed, but erroneous ground, that the boundary between Canada and New Brunswick would pass along the more northern range of highlands, it is of course unnecessary to enter into a consideration of their merits. Canada claims no conventional boundary, no line of convenience: She merely asks to be put in possession of the lands contained within her defined limits.

* In the argument of the agent of His Britannic Majesty before the commissioners under the 5th article of the treaty of Ghent in 1821, is contained the following statement, viz:—

* * * * "The argument of the American commissioners in this regard is founded on the assumption that the former southern boundary of Quebec lay to the northward of the Saint John and Ristigouche, which assumption is not only gratuitous, but inconsistent with the description of the line, which could never in such case reach the Bay of Chaleurs."

The above testimony is particularly worthy of consideration, as it comes from the pen of the honorable Ward Chipman of New Brunswick, the present chief justice of that Province, who in the same argument sustained the principle of construing the treaty of 1783 peremptorily, without reference to extraneous authorities.

There is one succeeding statement of, local reference, contained in Mr. Wilkinson's Report, which deserves particular consideration and is therefore given in his own words, viz:—

"From the close proximity of the navigable waters of the upper Saint John to those of the Saint Lawrence, it is inevitable that in a few years the whole of that region will be supplied with imported necessities from the Saint Lawrence. Such is the great advantage of the downward, as compared with the upward navigation of the Saint John, that it can hardly be foreseen to what extent the more advantageous traffic may eventually prevail."

This statement is, no doubt strictly correct, but the very singular inference drawn therefrom, by Mr. Wilkinson is, that instead of cutting off only that portion of Canada, by any one of the arbitrary boundary lines suggested by him, the whole of the eastern part of the Province, up to the south shore of the Saint Lawrence, ought to be annexed *en bloc* to New Brunswick, so far to the westward as to include the Port of River du Loup within the latter Province.

Comment on such a proposition is wholly unnecessary. It is indeed perfectly obvious that the original boundaries given by Great Britain, in 1763, to Canada and Nova Scotia, were not decided upon without due consideration in respect to their positions, and the very statement given by Mr. Wilkinson is, perhaps, as strong an argument as can be adduced against the propriety or expediency, to say nothing of the justice, of now substituting a new and arbitrary boundary in the place of the ancient one, for the purpose of aggrandizing New Brunswick and thereby depriving Canada of territory guaranteed to her by the most solemn acts of the imperial government.

No. 7.

Remarks on Statements concerning the unsettled boundary line between Canada and New Brunswick, contained in Despatches from His Excellency Sir William Macbean George Colebrooke, K. H., Lieutenant-Governor of New Brunswick, to the Right Honorable Lord Stanley, Her Majesty's Secretary of State for the Colonies.

EXTRACT FIRST.

(Dated Fredericton, N. B., 30th September, 1842.)

* * * * "Besides the ordinary objections to a river boundary, the Ristigouche would thus constitute a very inconvenient frontier between Canada and New Brunswick, and, recurring to the natural principal of the boundary settlement of 1783, that of a line along the highlands dividing the waters flowing in opposite directions, I am inclined to think that the most eligible line of separation between the two Provinces, would be a direct one, from the Saint Francis to the heights which formed the limits of the American claims, and which their surveyors explored in the last year, and along those heights to the eastward.

"The intersection, by such a line, of the streams in the highlands is of little consequence; but when they descend and become navigable it is manifest that in a new country, accessible only through its rivers, a line either intersecting or dividing the rivers and their tributaries is calculated to produce a conflict of jurisdiction, and for a time, the occupation of

"the intermediate territory by a lawless population.
 "To prevent the disputes arising from these causes
 "was obviously the intention of the negotiators of 1783,
 "and, a departure from the principle adopted by them
 "was the occasion of the disputes now happily terminated."

EXTRACT SECOND.

(Dated Fredericton, N. B. 14th November, 1813.)

"I regret that it is impracticable to reconcile the
 "views of the two provincial governments; but, as a
 "decided opinion is here entertained that Canada pos-
 "sesses no claim whatever to any territory south of her
 "southern boundary, as defined in the Quebec Act, by
 "the range of hills extending westward from the head
 "of the Baie des Chaleurs, and there being in fact no
 "other line of hills northward of the Saint John, which
 "could by any possibility constitute her southern bound-
 "ary, the intermediate territory in question, which
 "was claimed by the Americans, necessarily reverted
 "to this Province when that claim was relinquished
 "by the treaty of Washington."

In the first of the foregoing extracts it may be seen
 that His Excellency has neither cited nor made the
 slightest allusion to the Royal Proclamation of 1763
 nor the Quebec Act of 1774, which, nevertheless, are
 the *only* legitimate authorities to be referred to in de-
 termining the original position assigned to the southern
 boundary of Canada.

The treaty of Paris, of 1783, is, however, adverted
 to in relation to certain descriptions (these descriptions
 being also contained in the legitimate authorities before
 mentioned and not cited by His Excellency) although
 that treaty, since the settlement, in 1798, of the difficul-
 ties concerning the identity of the river Saint Croix,
 can have no possible reference to any further question
 of boundary in which New Brunswick has any, or the
 least participation, the American territory therein de-
 scribed, being terminated on the *east* by the same line
 of boundary which constitutes the *western* limit of
 New Brunswick.

In thus avoiding any allusion to the proper authori-
 ties for determining the *true* boundary, His Excellency
 at the same time proposes an entirely *new line*, and
 adds, in support and explanation of his proposition, the
 two following statements, viz. :—

1st.—That the Ristigouche river (supposing the
 Tomkissue river to be adopted instead of the upper part
 of the Ristigouche) would constitute a very inconvenient
 frontier between Canada and New Brunswick.

2nd.—That His Excellency was "*inclined to think*
 "that the *most eligible* line of separation between the
 "two Provinces, would be a direct one from the Saint
 "Francis to the heights which formed the limit of the
 "American claims, and along those heights to the
 "eastward."

The statement concerning the Ristigouche will not
 be controverted on the part of Canada; on the con-
 trary, instead of contending that the Ristigouche ought
 to be the boundary, Canada denies the right of New
 Brunswick to any territory whatever which is washed
 by that stream or any of its tributaries, and claims for
 herself lands lying immediately to the *south* of it, to
 the extent of about 2,340,000 acres, as belonging to
 her according to the limits respectively assigned the
 two Provinces, 81 years ago, by the British govern-
 ment.

The other proposed line of boundary which His Ex-
 cellency was inclined to think would be the most
 eligible for dividing the Province, is *not* the line assign-
 ed by Great Britain for that purpose. The western
 part, as described by His Excellency, is about 60 miles
 to the *west* of the western limit of New Brunswick, and
 nearly 120 miles to the *north* of the true southern
 boundary line of Canada.

It may be remarked that His Excellency has only
 given a partial description of this line, as he merely
 states that it should proceed along certain heights "*to*
 "*the eastward*," leaving us entirely in the dark as to
 the point intended for its eastern termination.

It appears highly probable that His Excellency in-
 tended his own statement and Dr. Gesner's Report to
 be considered as parts of the same document, as they
 were both forwarded to Her Majesty's Secretary of
 State for the Colonies at the same time.

On this supposition the descriptions of the lines so
 respectively proposed for the northern boundary of New
 Brunswick, are complete, which they are not if either
 description be taken by itself, for, His Excellency's
 proposed line, extending from the Saint Francis to cer-
 tain heights "*and along those heights to the east-*
 "*ward*," and Dr. Gesner's proposed line extending
 "*from Cape Rosier*" along the same heights, if pro-
 longed, must inevitably meet, and the two would then
 form one continuous line from the gulf of Saint Law-
 rence to the river Saint Francis.

The absurdity of claiming, as a matter of right, that
 New Brunswick should now have such additions made
 to her limits, from Canadian territory, has already been
 fully shown in other parts of this Report.

If the government of New Brunswick, in this in-
 stance, had recognised the limits assigned to that Pro-
 vince by Royal authority in 1763, and had now applied
 to the same authority to enlarge those limits, and by
 doing so to reduce the extent of Canada (which was
 also defined in its limits in the same year and by the
 same authority, those limits being afterwards confirmed
 by a statute of the imperial Parliament) then indeed
 would such claims have come before the British govern-
 ment in their true and proper light.

But the case is widely different when, as in that un-
 der consideration, no recognition, no mention, nor ever
 the slightest allusion is made on the part of New
 Brunswick to any defined and pre-existing rights of
 either Province, while, at the same time, the imperial
 government is called upon to cut off several millions
 of acres from Canada and to annex the same to the
 Province of New Brunswick.

It may possibly be alleged that New Brunswick
 being a much smaller Province than Canada, it would
 be no more than reasonable that the territory of the
 former should be increased by the annexation of
 the adjoining parts of the latter Province. To this it
 may be replied that the principle of equalization can
 only be acted upon when it is not incompatible with
 vested and acknowledged rights, and, that Canada might
 with equal justice be called upon to surrender a portion
 of her revenues to the Province of New Brunswick,
 and it is certain that the *direct* concession of her terri-
 tory, by adopting the line of boundary from Cape Ro-
 sier to the westward, would involve the *indirect* ces-
 sion of the latter also.

The second and last extract from the despatches of
 His Excellency, the Lieutenant-Governor of New
 Brunswick, in relation to the territorial claims main-

tained on behalf of that Province, alone remains to be examined. It may be seen that His Excellency commences by affirming the opinion entertained by New Brunswick, "that Canada possesses no claim whatever to any territory *south* of her southern boundary as defined in the Quebec Act, by the range of hills extending westward from the head of the Baie des Chaleurs." That opinion, so clearly and explicitly stated by His Excellency, is most cordially concurred in on the part of Canada.

But, while she entirely coincides in the opinion thus expressed by His Excellency, Canada extends her faith to the *principle* involved therein, and is equally convinced that New Brunswick possesses no claim whatever to any territory *west* of her western boundary, as defined by Royal authority in 1763, "the mouth of the river Saint Croix, the said river to its source, and a line drawn due north from thence, to the southern boundary of our Province of Quebec."

His Excellency, the Lieutenant-Governor of New Brunswick, appears however, to have limited his belief in the principle he invoked to the special case which he had cited in regard to Canada, for in the same sentence where that belief is avowed, he proceeds to state that certain parts of the American claims (which claims were bounded to the east by the identical line bounding New Brunswick to the west) "*necessarily* reverted" to New Brunswick when relinquished by the Americans: in other words, that New Brunswick, without any act of annexation, *necessarily* became possessed of territory to the west of her western boundary.

The range of hills, mentioned by His Excellency, as extending westward from the head of the Baie des Chaleurs, and forming the southern boundary of Canada according to the Quebec Act, is the true range, claimed by Canada, as determining the position of her southern boundary line. This range, the *only one* extending from the head of the Baie des Chaleurs to the sources of Connecticut river, His Excellency seems to have confounded with another range, mentioned by himself and Dr. Gesner as before stated. This, which they describe as commencing at Cape Rosiers, passes about 60 miles to the north of the northern coast of the Bay and its western extremity, and, according to the testimony of the Royal commissioners, Messrs. Featherstonhaugh and Mudge, more than fifty miles to the north of the sources of the Connecticut river.

It was apparently from having adopted the very erroneous and extraordinary conclusion, that the ridge of high lands extending westwardly from Cape Rosiers was the same ridge which extended westwardly from the head of the Baie des Chaleurs, that His Excellency was led to imagine the existence of a tract of *non descript, unappropriated territory* situated between Canada and the United States, and lying to the west of the western limit of New Brunswick, and to infer that such territory, for some reasons or grounds which His Excellency has not explained "*necessarily* reverted" to the Province of New Brunswick, when no longer claimed by the United States. It must not be forgotten that one of the principal arguments of Great Britain, opposed to the extended claims of the United States, was, that a large hereditary seignior in the interior of the tract which His Excellency claims as *necessarily* reverting to New Brunswick, was incontestably part of Canada, and had existed as such since the year 1683.

His Excellency cannot have been aware that the British government could not adopt his conclusions without *now* declaring that the same territory was, and ever had been, a part of New Brunswick.

No. 8.

Consideration of Claims, on the part of either Province, to Sections of the Disputed Territory on the ground of actual possession, or the exercise of previous jurisdiction.

In the foregoing review of the various and discordant territorial claims, made on behalf of New Brunswick, we find that such claims have been brought forward in most cases without the slightest attempt to prove their validity,—the mere assertion of private opinion constituting no argument in their support.

We also find that in one insulated case, where reference to authorities was attempted in support of the said claims, the result of the attempt only served to show, more clearly, that those claims were at variance with every legitimate authority, and wholly destitute of any solid foundation.

It is certainly a curious fact that while thus pertinaciously insisting on supposed claims, of the nature in question, the several parties, employed for that purpose on behalf of New Brunswick, should be unable to agree in relation to the nature and extent of those claims, and should entirely fail in adducing any authority giving it even the color of validity.

It cannot be supposed that these considerations have escaped the observation of the authorities in New Brunswick, and, notwithstanding the tone of confidence with which the pretensions of that Province have been brought forward, it is evident that they are still virtually undefined, and, unless abandoned altogether, must ultimately resolve themselves into a claim for a new, arbitrary and purely conventional boundary.

Opinions have already been openly expressed in the legislature of that Province, fully substantiating the above conclusions. One member of the legislative council remarked in debate that "*the only positive claim that New Brunswick had to the Madawaska settlement was a few miles above the Grand Falls*," which would imply a conviction in the speaker, that the rights of New Brunswick terminated at the due north line passing Saint John a few miles above the Grand Falls.

Another member of the same body, while discussing a proposed measure for erecting a new parish in Madawaska, observed that "he certainly thought they should wait until that difficulty (the boundary line) was settled, before they made a division of the parish, particularly as it was probable that one of the parishes spoken of, would be out of the jurisdiction of the Province."

Speaking on the same question it was remarked in that debate, by another member, that he "*considered it a most absurd way of legislating to attempt to pass a bill for the dividing of a parish, of which, in all probability, a great part when the lines between the two Provinces were settled, would be out of the jurisdiction of the Province altogether.*"

A member of the house of assembly (also one of the executive council of New Brunswick) stated that the boundary question "*was a difficult one, and should be dealt with very cautiously, for the government at home had done every thing in their power to advance the claims of this Province*" (New Brunswick).

Appendix, No.
31.

On another occasion, in debates in the legislative council, a member of that body stated that "he for one, did not feel disposed to give way to Canada in this case, for he considered the whole of Madawaska belonged to New Brunswick; and, if they had no other claims, they had possession for about 60 years, which was nine points of the law."

It is clear that no public act or deed of a colonial dependency, although assented to or performed in the name of the Sovereign, can supersede the act of the metropolitan State, unless express authority has been delegated by the latter for that special purpose.

As there has never been any act of Great Britain, authorizing the Provincial government of New Brunswick to remove and extend the original limits assigned that Province, it is evident that in extending her grants, and attempting to push her civil jurisdiction beyond those limits, she has done nothing which can annul or impair the force of the Royal proclamation of 1763; the imperial Act of 1774, and the description of the boundaries of Nova Scotia as given in the Governor's Commission in 1763, and since continued in the same descriptive language up to the present time.

It will also be apparent that (even admitting for the sake of argument that a possession sanctioned by an authority inferior to the Crown and parliament, could give a title to any of the territory in question) New Brunswick cannot found even a colorable claim to any part of that territory, on the ground of possession,—when the subject is examined with reference to the facts, shewing the extent and relative periods of similar but adverse possession, on the part of Canada.

To render the present state of the relations between Canada and New Brunswick as intelligible as possible, it may be well briefly to recapitulate and review the proceedings formerly adopted by the two Provincial governments, in relation to the boundary line, and, also the facts connected with their respective territorial claims, and actual periods of possession or exercise of jurisdiction.

Statement,
Note, page 6.
Appendix, No.
28 and 30.

It has already been shewn that in public Acts of New Brunswick in 1785 and 1786, the position of the southern boundary of the Province of Quebec is recognised as extending westerly and south-westwardly from the Baie des Chaleurs.

Appendix, No.
43.

About the same time doubts began to be raised, by individuals in that Province, in regard to the position of the same boundary, and, in July 1787, the respective governments of Quebec and New Brunswick appointed persons to repair to the *Grand Falls of the Saint John*, to meet there for the purpose of then settling the boundary line between the two Provinces.

Mr. Sproule, the Surveyor General of New Brunswick, was appointed for this service on behalf of that Province, and Mr. John Holland, accompanied by Mr. Finlay, was deputed on the part of Quebec.

Appendix, No.
32.

The respective parties met, not at the Grand Falls, as directed in their instructions, but in the Acadian settlement, opposite Madawaska. Mr. Sproule, who had passed the place appointed for their meeting, stating that he conceived his waiting for the gentleman from Canada to be totally unnecessary, and that he was then on his way to the carrying place, between the river Saint Lawrence and Lake Temiscouata, as it was there (according to his idea) that the boundary ought to be fixed.

On the other hand, Mr. Holland and Mr. Finlay maintained that the heights of land extended from the

Baie des Chaleurs to the river Saint John, and would strike it at or near the Grand Falls, to ascertain which, and more positively determine the situation, and explore the face of the country, they requested Mr. Sproule to return with them to the Grand Falls.

This he refused to do, saying that his previously conceived opinions were unalterable, and he was bound to observe General Carleton's (the Lieutenant Governor's) instructions which were that he should be governed by the Quebec Act "which determines that boundary to take the highlands which divide those waters that empty themselves into the river Saint Lawrence from those which fall into the Atlantic Ocean."

Appendix, No.

Mr. Sproule accordingly departed, continuing his way to the Temiscouata Portage, while the other party went to the Grand Falls.

Thus terminated the first attempt to trace the boundary line, between Canada and New Brunswick, on the face of the country.

On examining the proceedings adopted on behalf of New Brunswick, even at that comparatively remote period, for the evident purpose of avoiding or evading an examination of the part of the country where the boundary line *must of necessity have passed*, we have to regret that no evidence is thence inferable, warranting the belief that it was then the intention of the authorities of New Brunswick to allow the position of the line, described in the Proclamation of 1763 and the Quebec Act, to be brought to the test of a practical survey.

The instructions of the Lieutenant-Governor to Mr. Sproule contained an assumed interpretation of the language used in the descriptions of the southern boundary of Quebec, this assumed interpretation introducing limitations not contained in the description, and carrying on its face the stamp of being incorrect and insusceptible of any practical application. For the descriptions above referred to, do not assume, or render it necessary, that the highlands specifically described should actually extend up to the Baie des Chaleurs, and if there was to be any indefinite space where the line had to be extended by inference or from collateral authority, how could the Lieutenant-Governor be justified in affirming *without* examination, that the boundary between the two Provinces passed along the particular range of highlands?—It was obviously impossible that his assumed interpretation could be the true one, and yet, under these instructions, Mr. Sproule went still further and refused to co-operate in an *examination* of the country adjoining the head of the Baie des Chaleurs, to which it was positively and indisputably necessary that the boundary should extend.

The only course which he would consent to adopt was that of proceeding to place the boundary at the *Temiscouata Portage*, a point situated more than 50 miles outside of the possible limits of New Brunswick, it being so far to the west of the meridian of any one of the sources of the Saint Croix.

The above proceedings have been often referred to on the part of New Brunswick, as furnishing evidence of the existence of insurmountable difficulties in the way of tracing the boundary line according to the original descriptions given of it by the Crown and

* This was an error. The words "Atlantic Ocean" are used in the treaty of 1783, but not in the Quebec Act, where "the Sea" is the term adopted. The difference is of no importance in construing the descriptions of the southern boundary of the Province of Quebec.

parliament, whence the inference has been drawn, by that Province, that it will devolve on Her Majesty's government to establish a new, conventional or arbitrary line of boundary between the two Provinces.*

Map A.

Note, page 18.

It is impossible to admit the truth of the allegations above mentioned or the inference attempted to be drawn from them. The course taken by the government of New Brunswick, on the occasion referred to, was, as has been shown, the sole cause which prevented the necessary investigation into the merits of the question. The case was prejudged on the part of that Province, but the result has shown that the judgment was wrong, as the boundary on which Mr. Sproule insisted was not the boundary of the Quebec Act, but an entirely new one, which would never have reached the head of the Baie des Chaleurs.

A proceeding of this nature on the part of Mr. Sproule and his positive refusal to enter upon any examination of the country extending from the Baie des Chaleurs, where it was indisputable that the boundary line *must* pass, cannot be adduced to prove the existence of any real difficulty in the way of tracing the line according to the original descriptions. It merely proves that the authorities of New Brunswick wished to avoid, and did avoid, an examination of the country, and therefore of the merits of the question, and this may constructively be considered as an admission on their part that they were then apprehensive that such an examination would prove fatal to their pretensions.

Appendix, No. 33.

That a compliance, on Mr. Sproule's part, with Mr. Holland's request, to proceed to make these examinations would have placed the merits of the question beyond the reach of any pretended doubt, is now a matter of certainty, as is evident from information subsequently acquired, and particularly from the Royal Commissioners in 1839-40.

The subject of the actual exercise of jurisdiction over different parts of the disputed territory, by either of the two Provinces, comes next under consideration.

Map B.

Appendix, No. 29 and 30.

Beginning with that portion of the disputed territory lying to the west of the due north line from the river Saint Croix, and south of the river Saint John, the oldest grant is the Canadian seignior of Madawaska and lake Temiscouata, containing about 279,400 English statute acres. †

This tract was granted by the government of Canada in the year 1683, and as observed in the British Statement on the subject of the American boundary "has preserved its individuality under the original grant, and has constantly been, and is at this moment subject to the jurisdiction of Canada."

Map D.

The next grant within the same tract was made by the government of New Brunswick in 1790, and consisted of a number of farm lots, lying on the north shore of the Saint John river, containing together 4261 acres, with 10 per cent. allowance for highways.

* In one of the despatches of His Excellency the Lieutenant-Governor of New Brunswick, printed, with other documents concerning the boundary line, by order of the Assembly of that Province in February, 1844, is contained the following sentence:—"The failure of former attempts to define the boundary leads me to apprehend that the present will be equally unsuccessful, and, that it will devolve on Her Majesty's government to establish such a conventional line as will be but calculated for the interests of the two Provinces."

† For a knowledge of the superficial contents of this seignior, I am indebted to the kindness of Andrew Russell, esquire, of the Surveyor General's department, Canada.—A. W.

Four years after (in 1794) the government of New Brunswick made a similar grant of sundry farm lots along the north shore of the river Saint John, containing together 2252 acres, and a like allowance for highways, the two grants, thus made, containing 9513 acres.

In 1825 and 1826 two other farm lots were granted by the authority of New Brunswick, in the same vicinity with those before mentioned, containing, respectively 250 and 300 acres, the whole amount so granted containing 7063 acres with the highway allowance, or, a fraction less than 7770 acres altogether.

As it is upon these grants that the "sixty years of possession" spoken of in the New Brunswick Legislature, is founded, it may be well to examine the foundation and relative merits of that claim, as compared with adverse claims founded on similar facts which exist on the part of Canada.

The tract of country where these grants were made by New Brunswick was supposed to be (as it actually was and still is) an integral part of the Province of Quebec or Canada; and, accordingly, the latter Province exercised jurisdiction over the Madawaska settlement up to the year 1792. This jurisdiction of Canada had been called in question by New Brunswick previous to that period, and in 1790, as before mentioned, the authorities of that Province, had issued grants for 4261 acres of land in the settlements.

The Canadian jurisdiction seems to have been finally interrupted in 1792, by the capture and abduction of an officer employed under the authority of Canada to execute a civil service. This forcible intrusion on the previously existing rights of Canada, was made by an individual acting as a magistrate under the authority of New Brunswick, who in the same year and previous to this transaction, had assembled the inhabitants of the settlement and caused new militia officers to be elected by a majority of voices, although there were already proper officers there duly appointed by the authority of the government of Canada.

The right jurisdiction was therefore first exercised over this settlement by the government of Quebec, as far back as the year 1777. New Brunswick afterwards set up an undefined claim to the territory wherein the settlement was situated, but refused to cooperate in any exploration for ascertaining the true position of the boundary line, by which the questions she had raised could be finally decided.

She next proceeded to make an attempt to wrest from the Province of Quebec the possession then actually enjoyed by the latter over the Madawaska settlement, and to substitute her own in its place; and during the existence of the conflicting jurisdiction of the two Provinces, arising out of that attempt, New Brunswick executed the grant of 4261 acres in the same settlement. This was in the year 1790. The arrest and abduction of the Canadian officer in 1792, the election of new officers of militia in the settlement the same year, and the subsequent grant in 1794 of 2252 acres of land in the vicinity of the first grant, complete the series of unauthorised acts on behalf of New Brunswick, in forcibly attempting to acquire jurisdiction over, and possession of that portion of territory then and previously in the rightful possession of Canada.

It is evident that the boundaries of colonial dependencies, like the British American Provinces, can only be assigned them by the authority of the Metropolitan State, and, it is only the same authority which is

Map D.

competent to put the respective Provinces in possession of their assigned territory, if already possessed by a foreign state, or even by another colony.—The mere allegation of a claim on the part of one Province, for additional territory lying within the existing limits of another, cannot therefore confer a shadow of authority for the direct, or indirect assumption of jurisdiction over the territory so claimed.

Assuming that the unauthorized exercise of jurisdiction, on the part of New Brunswick, over the Madawaska settlement commenced in 1790, at the date of the grant of 4261 acres; allowing the grant of 1794, and those of 1825 and 1826 to be added to the former, and we have (adding to their sum the 10 per cent. allowed for highways) a total amount of something less than 7770 acres of land actually granted by that Province, and constituting the sole foundation for its claim to any possessory right, this so claimed right, taken in the most extended construction, having been unconstitutionally obtained, only 54 years back from the present time.

Against this assumed possession, Canada opposes the general claim of possessing the prior and only legitimate right of jurisdiction over that and the adjoining British Canadian territory, extending from thence to the river Saint Lawrence. She also opposes the special claim of possessing and exercising an actual, definite and rightful jurisdiction over the Fief Madawaska and Lake Temiscouata which has been exercised uninterruptedly for a period of 161 years. This Fief contains, as before stated, upwards of 279,400 statute acres; is an integral and not an insulated portion of the Province of Canada, and forms part of the same tract of country wherein are situated the limited and insulated grants, made in the Madawaska settlement by New Brunswick.

Canada, therefore, has a general and uninterrupted claim of possession to all that part of the disputed territory, from the time of the first grants or settlements of the French in that quarter, and, a specially defined claim to the Fief Madawaska, as an integral part of Canada, for 161 years past.

New Brunswick, on the contrary, as has been shown, can claim no *valid* possessory right in that section of the disputed territory. The possession which she at present enjoys, of the Madawaska settlement, a possession forcibly wrested from Canada, is only of 54 years standing, and, in quantity (referring to the amount of land actually granted by New Brunswick) is but a trifle more than *one thirty sixth* part of the Fief Madawaska alone.

The only color of right, in the temporary occupancy thus acquired by New Brunswick, extends back no farther than the year 1830, when that Province was authorized by the authority of the imperial government to *continue* to exercise jurisdiction over the Madawaska settlement, as that settlement had been proved on the trial of John Baker, in 1828, to be then *de facto* subject to the jurisdiction of New Brunswick.

This authorization, however, was accompanied with an express prohibition against any attempt to extend such jurisdiction up the Madawaska river.

It must be remembered that the confidential despatch, containing the above limitation to the jurisdiction of New Brunswick, did not refer to any permanent territorial boundary or limit, for either of the Provinces, but merely defined the limits within which they should respectively exercise jurisdiction, as it was then essentially necessary, pending the settlement of the bound-

dary questions then under discussion with the United States, that every part of the disputed territory should be subject to some certain British jurisdiction.

In support of this position it may be observed, that in the same despatch, the jurisdiction of Canada is also required to extend down to the mouth of the Madawaska river, which reduced the tract allotted to the jurisdiction of New Brunswick to the southern side of the Saint John river and the narrow strip of settlement along the northern shore, a division which it was impossible to adopt as a permanent Provincial boundary under any previous definition of its position given by the British government.

All claims of possession, above referred to, relate to tracts lying to the west of the *possible* limits of New Brunswick, as well as to the north of the true southern boundary of Canada, according to the Quebec Act.

The territory lying to the east of the exploratory north line, from the source of the Saint Croix river, comes next under consideration.

In this portion of the disputed territory the respective grants or possessions of the two Provinces, are divided by the Ristigouche river; as Canada has made no grants to the south of that stream, and New Brunswick has never practically attempted to acquire any possessory rights on the opposite or northern side of the same. It is true that the Ristigouche river is not the boundary line and cannot, therefore, be considered as forming a legitimate separation between the grants of the two Provinces, but, in having hitherto adopted this river as a northern limit, New Brunswick has not attempted any forced assumption of jurisdiction, over Canadian territory, as in the case of the Madawaska settlements.

The actual grants made by New Brunswick between the southern boundary of Canada and the Ristigouche river, are mostly found near the lower parts of that river, extending from Dalhousie upwards, towards the Upsalquitche river. These grants consist mostly of farm lots of various dimensions and granted at different periods.

The dates of the grants and the mode in which a part of these lots are described in them, may be found in the Appendix.

In the Legislative Acts of New Brunswick for a considerable period, every allusion to the northern boundary of that Province was made by simply referring it to "*the southern boundary of Canada*," without asserting that the Ristigouche river, or any other specially defined position, constituted such boundary.

The same form of description was used as late as in 1837, when the county of Ristigouche was set off from the county of Gloucester.

Previous to that Act however, in 1814, we find that New Brunswick in other legislative Acts, virtually assumed that the Ristigouche river constituted her northern boundary. In the Statute of that Province, 54 Geo. 3. cap. 17, the parish of Beresford is described as being bounded "easterly, northerly and northwesterly by the Bay of Chaleur and the river Ristigouche, including Heron Islands and the Islands in the said Ristigouche river."

Again, in another Act of the New Brunswick Legislature (in 1826) the limits of the county of Gloucester, then set off from the original county of Northumberland, were declared to embrace the parishes of

Appendix, No. 41.

Appendix, No. 29, 30, 31 and 32.

Appendix, No. 29.

Appendix, No. 32.

Appendix, No. 37.

Appendix, No. 32.

Appendix, No. 18 and 19.

Appendix, No. 20, 21, 22, 23 and 24.

Appendix, No. 25.

Saumarez and Beresford, the latter having been described, (as before mentioned,) as extending to the Ristigouche river.

Appendix, No. 26. Lastly, in 1837, the county of Ristigouche was erected and described as containing "all that part of the said county of Gloucester, which lies to the northward and westward and is included within the line drawn due south from the mouth of the Belledune river until it strikes the line dividing the parishes of Beresford and Bathurst in the said county—thence westerly by the line dividing the counties of Northumberland and Gloucester until it strikes the line dividing the county of Carleton from the present county of Gloucester,—thence by the said line a northerly course until it strikes the line of the Province of Canada."

It appears then from the language used in her Legislative enactments, that New Brunswick virtually maintained at various times the following positions concerning the southern boundary of Canada.

1st.—In 1786, that the northern limit of Northumberland county, was coincident with the southern line of the Province of Quebec, now Canada.

2nd.—In 1814, that the north-westernmost parish in that county was bounded to the northward by the Ristigouche river.

Appendix, No. 27. 3rd.—In 1826, that the then new county of Gloucester, which was taken from the north part of Northumberland, included the same northernmost parish of Northumberland, as before described, and therefore, (by inference) that it was also bounded on the north by the Ristigouche river.

Appendix, No. 26. 4th.—In 1837, that the northwestern part of Gloucester (then set off into a new county) was bounded to the northward by a line described as being "the line of the Province of Lower Canada," and in the statute 2nd Victoria, cap. 19, (1839,) the parishes in this last county, from the Baie des Chaleurs up to the western line of the county, are all specially described as being bounded on the north by the Ristigouche river.

New Brunswick has thus, in her Legislative enactments, for about 30 years past, constantly referred to the Ristigouche river as forming the true southern boundary of Canada and the northern limit of her own claims.

On the northern side of the Ristigouche, all the granted lands have been, and still are held under the sole authority of the Canadian government. These grants extend back 153 years, and have continued to be made from time to time up to the present day.

Appendix, No. 11. Among them may be mentioned the seignior of Cloridon, containing about 381,500 statute acres, which was re-granted in 1691, the original title deeds having been lost, or taken from the proprietor; the seignior of Lake Matapedia, another very large grant, made in 1694, the seignior of Shoolbred, granted in 1788, lying on the head of the Baie des Chaleurs, and extending from thence upwards along the Ristigouche, besides sundry minor grants, made at different periods along the Ristigouche river.

Appendix, No. 11. These grants although lying on the north side of the Ristigouche, were not made with reference to that river considered as a Provincial boundary; on the contrary it will be seen that Cloridon was granted subject to the oppositions which might be made by the *Seignior*

of Miramichi, the territory bordering on the latter river, and as far to the south as the 46th degree of north latitude, then forming part of Canada.

The grant of the Seignior of Lake Matapedia was also made when the Province of Canada extended to the 46th degree of north latitude, and therefore could not have been made with reference to any other supposed boundary.

The other ancient grants in the vicinity of the Ristigouche, made by the government of the Province of Quebec, are dated about the time of the first attempt to trace the boundary line in the field, and the Province of Quebec then distinctly claimed that her southern boundary line should extend from the head of the Baie des Chaleurs, along the highlands running to the south of the Ristigouche, to near the Great Falls of the river Saint John.

It is therefore evident that the prior and extended possession of Canada, of the territory in the neighbourhood of the Ristigouche, is not divided from the more limited tract, on the opposite side of the river, of which New Brunswick has recently assumed possession, by any valid line of separation, which could give that Province a claim founded on a defined or exclusive possession.

The powers conferred on a colonial dependency cannot (as it has been before observed) extend so far as to empower the authorities of such a dependency to interfere forcibly in matters of jurisdiction beyond the limits of the territory of which she has at least actual and quiet possession, *de facto*. Such an authority rests with the Metropolitan State.

The possession, taken by New Brunswick, of lands on the south side of the Ristigouche, and north of the highland range extending westwardly from *Baie des Chaleurs*, is therefore insufficient for establishing a possessory claim on behalf of that Province to any part of the territory to which it has extended: first, because it was assumed when no right of interfering with the possessions of another Province was vested in the government of New Brunswick; and secondly, because the adverse and far more ancient and extended possessions of Canada in the same undivided territory, preclude the possibility of the creation of a distinct and separate claim to any part thereof, by *ex parte* acts of New Brunswick, of comparatively recent date, which can merely go to establish a conflicting and contemporaneous jurisdiction, over a small part of the tract, without prejudice to the unbroken and recognized jurisdiction of Canada over the entire territory.

In addition to the above mentioned cases, where the government of New Brunswick has encroached on the limits of territory actually in possession of Canada, and acquired partial possession of isolated tracts therein, it appears that more recently, in the year last past, (1843,) a still more extended attempt was made on the part of that Province, having for its object the immediate and unauthorized assumption of jurisdiction over a large section of the Province of Canada, lying to the north and west of any possible boundary of New Brunswick, and extending northerly to within a short distance of the river Saint Lawrence.

The facts connected with the institution of this claim, and the grounds upon which it was sustained by the authorities of New Brunswick, are, for the most part, contained in documents placed by the Lieutenant-Governor of that Province, before the legislative assembly, and printed by order of the same, in February, 1844.

Licenses to cut timber in different parts of the territory, lying between the Madawaska, Saint Francis and Saint John's rivers, had been granted to different individuals by the government of Canada. The authorities of New Brunswick refused to suffer the timber, taken by virtue of such licenses, to pass through that Province until the full price of the timber was again paid to their own government.

To these terms the purchasers were obliged to submit, or to suffer the entire forfeiture of their timber. But this was not all the loss to which they were subjected by the New Brunswick government. They were treated as offenders against the laws of that Province and made to pay fines or penalties, exceeding the first cost of the timber, as sold by the government of Canada.*

Appendix, No. 17 and 29. It will now be shown that this indirect assumption of territorial right on the part of New Brunswick, was made in violation of the positively expressed commands of the imperial government, and in the face of a valid and uninterrupted exercise of jurisdiction over the same territory, on the part of Canada, from the time of the first settlements or grants made, in that part of the country, by the government of France.

Appendix, No. 17. In a confidential despatch from Sir George Murray to Mr. president Black, of New Brunswick, dated 8th April, 1830, and printed under an order of the assembly of New Brunswick, of the 16th February, 1844, that Province was strictly forbidden to extend her jurisdiction further to the northward than the mouth of the Madawaska river, while, at the same time, she was allowed to *continue* the exercise of jurisdiction ("as heretofore") over the settlement along the Saint John river and other parts of the disputed territory.—

Map B. D. Appendix, No. 18. Now, New Brunswick had *never* exercised jurisdiction over any territory in the interior, to the north of the portion of the Saint John river, then referred to, but, on the contrary, such territory had ever continued to remain under the jurisdiction of Canada.

In the same confidential despatch it was also stated that it was "advisable for the government of Lower Canada to *maintain* and exercise its jurisdiction "over the lake Temiscouata and the river Madawaska "quite down to the aforesaid grant, to Simon Hébert, "at its mouth."

It has been alleged, in relation to the passage above copied from Sir George Murray's despatch, that the limits of jurisdiction, to be maintained by Canada as therein described, were only intended to include the lake Temiscouata and the river Madawaska, with the shores in their immediate vicinity.

It can easily be shown that the text does not admit of so limited a construction.

In the same sentence of the despatch where the limits of Canadian jurisdiction are so defined, are added the words "which will include the whole fief of Madawaska;" an unequivocal expression, showing clearly that it was not the waters and shores of a lake and river alone which were to remain under Canadian jurisdiction.

It may be asked to what distance was it then intended that the territory, remaining within the jurisdiction of Canada, should extend back from the waters of lake Temiscouata and of the river Madawaska?

* I was recently informed, by one of the parties, that he was compelled, by the authorities of New Brunswick, to pay *two shillings* per ton of timber as a fine or penalty, besides *one shilling* per ton as the export duty, while the original price, demanded by the government of Canada, was only *one shilling and eight pence* for the same quantity.

There is abundant authority for answering such a question.

In the first place, it may be observed that the language of the despatch was, that New Brunswick should "maintain its jurisdiction *as heretofore*," in other parts "of the disputed territory including the *Madawaska settlement on the main river Saint John*, but not to "extend it up the river Madawaska."

The previous jurisdiction of New Brunswick, in the disputed territory, which she was allowed by this despatch to *continue* "as heretofore," was confined to the settlements now situate in the State of Maine, and the narrow strip bordering on the north shore of the Saint John, but not extending to the north of the said strip.

The settlements along the Madawaska river, which have always been under the jurisdiction of Canada, commence a few miles above the entrance of the Madawaska river into the Saint John, and extend upwards, on Crown lands, as well as in the granted fief of Madawaska.

It thence appears that New Brunswick has never acquired any right of jurisdiction over the territory north of the settlements along the Saint John, while on the other hand, *all* the other settlements in the same territory have remained uninterruptedly under the jurisdiction of Canada.

In the first statement on the part of Great Britain of the disputed points under the fifth article of the treaty of Ghent, it is maintained, that the fief Madawaska always formed a part of Canada, whether held by France of Great Britain; that it could not have been originally considered as an insulated portion of Canada, totally disunited from that Province, and, that Great Britain was warranted in the conclusion that the *whole tract of country* in which the fief lies, was always considered and treated by the authorities of Canada as an integral portion of that Province.

This statement, made on behalf of Great Britain, is specially referred to in the confidential despatch of Sir George Murray, and it is particularly stated therein that the exercise of Canadian jurisdiction, then defined, was necessary, *that the conduct of Great Britain might be consistent with her arguments.*

As, in her said arguments, Great Britain had assumed that Madawaska was *not* an insulated tract of Canadian territory, it is impossible to suppose that she would make it such, in the very step taken by her for rendering her argument and conduct consistent with each other, and, we come to the inevitable conclusion, which is indeed the only possible construction of the language used in the despatch, that the jurisdiction assigned to Canada, as therein contemplated, embraced "*the whole tract of country*," in which the fief Madawaska lies, down to the mouth of the river of the same name, and terminating on the settlements along the shore of the main river Saint John, where it had been before proved, on the trial of John Baker, that the Province of New Brunswick actually exercised jurisdiction.

With the above facts in view, and remembering that the Province of New Brunswick as a colonial dependency, *can possess no powers for assuming forcibly a possession, already vested in another Province*, we can hardly imagine proceedings so arbitrary and unsupported by even a colour of right, as those of New Brunswick, with regard to the timber licenses, which, had they been adopted by any foreign state under the pretence of possessing claims, similar to those set up by New Brunswick, could only have been considered as acts of unauthorized aggression, at variance with the recognized laws of nations.

It may be asked, what has New Brunswick adduced in justification of such a course of proceeding? and the question has already been answered; she has merely instituted various territorial claims, supported only by statements of various and contradictory kinds, and insusceptible of proof.

His Excellency the Lieutenant-Governor of New Brunswick, in a despatch dated 11th of August, 1843, printed with other documents by order of the New Brunswick Assembly, (page 14 of the printed copy) mentions this portion of the disputed territory, as territory *acquired* by the treaty of Washington, in which the boundary between the two Provinces had not been defined.

Again, in a despatch of the 14th November, 1843, (page 28 of the said copy) His Excellency states, that the same territory, which was claimed by the United States, necessarily reverted to New Brunswick when that claim was relinquished by the treaty of Washington; from which we must naturally infer that His Excellency had charged his opinion, and then believed that this territory was *not* a new acquisition, but a remnant of the Province of New Brunswick, which, by some extraordinary process, had become transferred to the *west side* of the prolongation of the line from the Saint Croix river, forming the *western* boundary of New Brunswick.

In another document concerning the boundary, from the pen of Mr. Wilkinson, brought forward by His Excellency in support of the claims of New Brunswick, frequent allusions are made to the "loss of territory" suffered by New Brunswick under the treaty of Washington, * from whence we are warranted in believing that Mr. Wilkinson did not agree in His Excellency's first opinion, that the territory comprised in the American claim and afterwards relinquished in the treaty of Washington, was territory newly acquired. It is certainly not a little surprising that His Excellency the Lieutenant-Governor, and Mr. Wilkinson, should both have forgotten that Great Britain had expressly declared that a large and integral portion of this territory formed part of Canada.

This vagueness and entire uncertainty, respecting the true nature of their own alleged claims, seems to have prevailed with every individual, who has attempted to discuss the merits of the question on the part of New Brunswick.

In the House of Assembly of that Province we hear the Honorable Speaker state his opinion that the "Report" which had already been made by Lord Ashburton, was a satisfactory one, and that it was best to be *careful* in what they were going to do "for the question ought to be handled *very carefully*."

Another member observed that, as he understood the question, the Province of New Brunswick "should go on the Ashburton line and *claim all*, on to the river Saint Lawrence?"—

* It is a curious fact that instead of losing, New Brunswick actually *acquired* several thousands of acres of territory by the treaty of Washington.

The western boundary of New Brunswick, from the source of the Saint Croix, was fixed by Great Britain to be a due north line. The exploratory line traced in 1817 and 1818 was run by the needle, with only occasional corrections for the change in the magnetic variation. This variation is westerly and rapidly increasing in proceeding to the northward. The line so traced was accordingly found to incline strongly to the westward, leaving several thousands of acres of territory, belonging to the State of Maine, within the limits of New Brunswick. This territory was definitively assigned to New Brunswick, by the confirmation of the exploratory line, as the dividing boundary, in the treaty of Washington.

A member of the house, being also an Executive Councillor, thought it best to get up a respectful address to Her Majesty on the subject; that they should be *particularly cautious* in what manner the address was prepared, and should *state* boldly that the land in dispute belonged to them "and not admit that one single inch of it belonged to Canada."

It must be admitted that this last mode of dealing with the question has been adopted in New Brunswick, from the year 1787 down to the present time; mere assertions, even without the semblance of support, seeming to have been preferred to undoubted facts in their arguments in support of their ever changing claims.

In the same debate where the preceding remarks were made, another member of the Executive Council informed the Assembly that "the question before them was a difficult one and should be dealt with *very cautiously, for the government at home had done every thing in their power to advance the claims of this Province*," (New Brunswick.)

This last statement, coming to the Assembly of New Brunswick through the regular channel of communication from the Executive Government, might at first seem startling to Canada, particularly as such a variety of claims (some of which go to the length of the entire dismemberment of Canada and the annexation of her territory to New Brunswick) have been brought under the consideration of the imperial government by the latter Province.

But such statements, with whatever apparent authority they may be made, must be regarded as incorrect.

Great Britain with her enormous extent of colonial possessions, scattered in every quarter of the globe, so far from having shown partiality to any one, over another, has always maintained a steady and even handed exercise of justice towards them all, according to the respective rights with which she had previously seen fit to endow them.

There cannot be a more obvious case in point than is found in the proceedings of the imperial government in relation to the Province of Canada.

At different periods, before the final conquest of Canada, Great Britain had issued grants of tracts, lying mostly to the south of Canada, but extending the description of the limits of such grants, to the river Saint Lawrence.

These were, however, merely war grants, and never came practically into effect.

After the definitive treaty of peace in 1763, when France ceded all her former Canadian and Acadian possessions to Great Britain, these war grants were not confirmed or renewed by the latter government, but, all the territory adjoining the river Saint Lawrence, as far to the southward as the Baie des Chaleurs, and thence along the line now in dispute to the parallel of the 45th degree of north latitude, on the bank of the Connecticut river, was, by her, assigned to the Province of Canada. At the same time, the newly acquired subjects of the Crown, residing therein, who were nearly all of French birth or origin, were duly secured in the enjoyment of their general laws, customs and institutions, saving only those laws which depended on the Sovereignty of France.

In the subsequent Imperial Statute 31 Geo. 3. cap. 31, dividing the Province of Quebec into the two Provinces of Lower and Upper Canada, the same liberal

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Vile Quebec Act of 1764.

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and just policy was continued by Great Britain, in relation to her subjects of British or French origin, each being sustained in the free exercise of the laws and usages most congenial to them.

The same generous policy was still adhered to in the Imperial Statute, passed in the 3rd and 4th years of Her present Majesty, uniting the Canadas into one Province.

All these Acts of the home government are indicative of her liberal policy towards this colony for more than eighty years past, and leave no grounds for the supposition that she is now desirous of dismembering Canada, and placing numbers of its inhabitants,—living there in full confidence of being still protected in the enjoyment of the laws to which they are accustomed, and which Great Britain has been pleased to guarantee to them,—under the jurisdiction of another Province, for the mere purpose of adding more territory to New Brunswick.

It is therefore impossible that the British government can (as asserted in New Brunswick) have done all in its power to advance the claims mentioned by that Province for the dismemberment of Canada.

Page 13, et seq. 16, " 18, " It has been shown that those alleged claims do not depend merely on some presumed ambiguity of language in the original descriptions of the boundary; they go much farther than that; they extend to integral portions of Canada, where no difficulty can possibly exist in construing the description of the boundary; they extend to tracts lying far without the possible limits of New Brunswick, in relation to her established boundary line, and include territorial possessions of Canada, positively maintained by Great Britain herself to have been such uninterruptedly, from the year 1683, whether Canada was in the hands of the French or English government.

Appendix, No. 29.

It cannot be denied that it is certainly in the power of the British Parliament to annex the whole of Canada to New Brunswick, should it see fit to do so, but, as no Act has been passed annexing the whole, or part of Canada to any other possession, though New Brunswick has claimed a very considerable part, it is at once evident that Great Britain has *not* done all in her power to advance that claim.

On referring to Lord Stanley's despatch to the Lieutenant-Governor of New Brunswick, dated 25th October 1842, (printed under order of the Assembly of New Brunswick of 16th February, 1844,) we find that in answer to several *ex parte* communications from the government of New Brunswick recommending the adoption of a new and arbitrary line for the northern boundary of that Province, passing through the interior of, or including the whole of Gaspé, His Lordship directed the Lieutenant-Governor to put himself in communication with the Governor General of Canada, and to abstain from adopting any proceedings which were indicative of his intentions in respect to "a new boundary line," until he was fully acquainted with the Governor General's views.

This reply, precisely such as might have been anticipated from a British Statesman, is sufficient of itself to show, conclusively, that the undue partiality of the home government, alleged in New Brunswick to exist, in favor of that Province, has, in fact, no existence whatever, except in the imagination of her partisans.

It is painful to be under the necessity of pursuing the investigation of adverse and conflicting claims of this nature, in any case, but particularly so when they arise between sister colonies, inhabited by fellow subjects, owing allegiance to the same common Sovereign.

But Canada has too long remained passive in the present case, and rights, vested in her by the parent state, have been invaded and encroached upon, almost without remonstrance on her part.

In settlements and territories, over which she had exercised an unquestioned jurisdiction for many years, a jurisdiction has been arbitrarily and unauthorisedly assumed by New Brunswick; large tracts of the unappropriated, but legitimate territory of Canada, have also, in like manner, been taken possession of by New Brunswick, and have been, and still are, retained in the possession of that Province.

Finally, after bringing forward various alleged claims to sections of the Canadian territory, lying beyond her own possible limits, and without awaiting the decision of Her Majesty's government thereupon, she has, in the entire absence of any right, as a colony, so to do, indirectly taken upon herself forcibly to exercise possessory rights in that territory, by seizing all the timber, cut therein under the authority of Canada, and by punishing with heavy fines, the persons who had acted under such authority, the possession of the same territory having (as before observed) been heretofore, from the first settlement of the country, vested in the government of Canada.

This Province recognises no right or power, vested in these colonies by Great Britain, which can authorize the interference of one Province with any existing rights or actual exercise of jurisdiction of the other, even if the validity thereof be a disputed question.

Such power, it is contended by Canada, can be vested only in the imperial government.

To that authority Canada confidently appeals, not doubting that the residue of her southern boundary line, from the head of the Baie des Chaleurs to the western boundary of New Brunswick, as the latter was finally settled by the treaty of Washington, will be established according to the position assigned it by the Royal Proclamation of 1763, and the Act of the Imperial Parliament commonly called the "Quebec Act," and, that she will be duly reinstated in the full possession of all parts of the included territory.

A. WELLS.

Commissioner.

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Vide Quebec Act of 1784.

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APPENDIX.

No. 1.

RIVER SAINTE CROIX.

Extract from the Original Grant of Nova Scotia to Sir William Alexander, dated 10th September, 1621.

"Omnes et singulas terras continentis ac insulas situatas et jacentes in America, intra caput seu promontorium, communiter cap de Sable appellatum jacens prope latitudinem quadraginta trium graduum, aut eo circa ab equinoctiali linea versus septentrionem, a quo promontorio versus litus maris tendens ad occidentem ad stationem Sancte Marie navium vulgo Sanct Maries bay, et deinceps versus septentrionem per directam lineam introitum sive ostium magnæ illius stationis navium trajicientem, que excurrit in terræ orientalem plagam inter regiones Suriqorum et Etecheminorum, vulgo Suriquois et Etechemines, ad fluvium vulgo nomine Sanctæ crucis appellatum, et ad scaturiginem remotissimam sive fontem ex occidentali parte ejusdem, qui se primum predicto fluvio immiscet; unde per imaginariam directam lineam, que pergere per terram seu currere versus septentrionem concipitur ad proximam navium stationem fluvium vel scaturiginem in magno fluvio de Canada sese exonerantem; et ab eo pergendo versus orientem per maris oras litorales ejusdem fluvii de Canada ad fluvium, stationem navium, portum aut litus communiter nomine de Gathepe vel Gaspie notum et appellatum."

No. 2.

Extract from the Royal Commission, appointing Montague Wilmot, Esquire, Captain General and Governor in Chief over the Province of Nova Scotia, dated 21st November, 1763.

"To the northward, our said Province shall be bounded by the southern boundary of our Province of Quebec, as far as the western extremity of the Bay des Chaleurs; to the eastward by the said Bay and the gulf of Saint Lawrence, &c., and to the westward, although our said Province hath anciently extended, and doth of right extend as far as the river Pentagoet, or Penobscot, it shall be bounded by a line drawn from Cape Sable across the entrance of the Bay of Fundy to the mouth of the river Sainte Croix, by the said river to its source, and by a line drawn due north from thence to the southern boundary of our colony of Quebec."

No. 3.

Extract from the definitive Treaty of Peace, concluded at Paris, between His Britannic Majesty and the United States of America, on the 3rd day of September, 1783.

Article 2nd.—"And that all disputes which might arise in future, on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed and declared that the following are and shall be their boundaries, viz:—From the north-west angle of

Nova Scotia, viz:—that angle which is formed by a line drawn due north from the source of the Sainte Croix river to the highlands, along the said highlands which divide those rivers that empty themselves into the river Saint Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut river, down along the middle of that river to the forty fifth degree of north latitude, from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraguy."

No. 4.

Extract from the Treaty of Amity, Commerce and Navigation between His Britannic Majesty and the United States of America signed at London the 19th day of November, 1794.

Article 5th.—"Whereas doubts have arisen what river was truly intended under the name of the river Sainte Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described, that question shall be referred to the final decision of Commissioners, to be appointed in the following manner, viz:—

"One Commissioner shall be named by His Majesty, and one by the President of the United States, by and with the advice and consent of the senate thereof, and the said two Commissioners shall agree on the choice of a third: or, if they cannot so agree, they shall each propose one person; and of the two names so proposed, one shall be drawn by lot in the presence of the two original Commissioners: and the three Commissioners so appointed shall be sworn impartially to examine and decide the said question according to such evidence as shall respectively be laid before them on the part of the British government and of the United States. The said Commissioners shall meet at Halifax and shall have power to adjourn to such other place or places as they shall think fit. They shall have power to appoint a Secretary and to employ such surveyors or other persons as they shall judge necessary. The said Commissioners shall, by a declaration under their hands and seals, decide what river is the river Sainte Croix intended by the treaty. The said declaration shall contain a description of the said river, and shall particularize the latitude and longitude of its mouth and of its source. Duplicates of this declaration, and of the statements of their accounts and of the journal of their proceedings, shall be delivered by them to the agent of His Majesty and to the agent of the United States, who may be respectively appointed and authorized to manage the business on behalf of the respective governments. And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject of dispute or difference between them."

N. B.—An explanatory article was afterwards added to this treaty, declaring that the decision of the Commissioners should be permanently binding on the two governments, respecting the place ascertained and described to be the source of the river Sainte Croix, and also dispensing with their particularizing the geographical position of the same.

No. 5.

*Declaration as to the Boundaries of the River
Sainte Croix.*

" Thomas Barclay, David Howell and Egbert Benson, Commissioners appointed in pursuance of the 5th article of the Treaty of Amity, Commerce and Navigation, between His Britannic Majesty and the United States of America, finally to decide the question, " What river was truly intended under the name of the river Sainte Croix, mentioned in the treaty of peace between His Majesty and the United States, forming a part of the boundary therein described ?"

" DECLARATION.

" We the said Commissioners, having been sworn impartially to examine and decide the said question according to such evidence as should respectively be laid before us, on the part of the British government and of the United States, and having heard the evidence which hath been laid before us by the agent of His Majesty and the agent of the United States, respectively, appointed and authorized to manage the business on behalf of the respective governments, have decided and hereby do decide the river hereinafter particularly described and mentioned, to be the river truly intended under the name of the river Sainte Croix, in the said treaty of peace, and forming a part of the boundary therein described, that is to say, the mouth of the said river is in Passamaquoddy Bay, at a point of land called Joe's Point, about one mile northward from the northern part of Saint Andrew's Island, and in the latitude of forty-five degrees five minutes and five seconds north, and in the longitude of sixty-seven degrees twelve minutes and thirty seconds west from the Royal observatory at Greenwich, in Great Britain, and three degrees fifty-four minutes and fifteen seconds east from Harvard College, in the University of Cambridge, in the State of Massachusetts; and the course of the said river up from its said mouth, is northerly, to a point of land called the Devil's Head, then turning the said point, is westerly, to where it divides into two streams, the one coming from the westward and the other coming from the northward, having the name of Chiputnatecook, or Chibitnatecook, as the same may be variously spelt, then up the said stream so coming from the northward to its source, which is a stake near a yellow birch tree hooped with iron, and marked S.T. and I.H. 1797, by Samuel Titcomb and John Harris, the surveyors employed to survey the above-mentioned stream coming from the northward; and the said river is designated on the map hereunto annexed, and hereby referred to as further descriptive of it by the letters A B C D E F G H I K and L; the letter A being at its said mouth, and the letter L being at its said source; and the course and distance of the said source from the island, at the confluence of the above-mentioned two streams, is, as laid down on the said map, north five degrees and about fifteen minutes west by the magnet about forty-eight miles and one quarter.

" In testimony whereof, we have hereunto set our hands and seals, at Providence, in the State of Rhode Island, the twenty-fifth day of October, in the year one thousand seven hundred and ninety-eight.

THOMAS BARCLAY.	[L. S.]
DAVID HOWELL.	[L. S.]
EGBERT BENSON.	[L. S.]

(Witness,)

EDWARD WINSLOW,
Secretary to the Commissioners.

No. 6.

The following statement in respect to the foregoing decision is copied from a printed pamphlet, and is supposed to come from the pen of the Hon. Ward Chipman, Chief Justice of New Brunswick, who was the Law Agent on the part of Great Britain under the 5th article of the treaty of Ghent.

" By the provisions of this treaty, one Commissioner was to be appointed by each government, and the two Commissioners, so appointed, were to agree in the choice of a third; or if they could not agree, each was to propose one person, and of the two names so proposed, one was to be drawn by lot in the presence of the two original Commissioners. In this instance the two original Commissioners did agree in the choice of a third. A Judge of the Supreme Court in the State of New York, and a man whose character stood high for talent and integrity; it being probably thought more advisable by the British Commissioner, to select, by mutual choice, an individual, whose character was known to him altho' a citizen of the United States, than to trust to the nomination of a third Commissioner, and thus in all probability leaving the decision of the controversy entirely to chance. This was in the year 1796. The discussions before three Commissioners were continued until the autumn of 1798; the Magaguadavic being throughout, most strenuously insisted upon as the true river Sainte Croix, on the part of the United States. The result in the first instance was, at the time, well understood to be that the third Commissioner, who was in fact the umpire, expressed himself satisfied that the British claim was fully established to the river Schoodic, as the river Sainte Croix, truly intended by that name in the treaty of 1783, and to the western branch of that river, as the trunk and main river; the original Commissioner expressing himself to be of a different opinion. The third Commissioner however placed the source of the river, which the treaty required to be particularized, at the mouth of the easternmost of the Schoodic lakes, where he seems to have considered it as losing the form of a river. This point is situate about five or six miles above the confluence of the Cheputnatecook with the main river, and on a meridian several miles to the eastward of the source of the Cheputnatecook. In this state of things it was proposed by the American agent, by way of accommodation, to adopt the extreme northern source of the Cheputnatecook, or northern branch of the Schoodic, as the source of the Sainte Croix. The inducement to this proposal on his part was said to be to save to the State of Massachusetts certain grants of land that had been made by that State between the western and northern branches of the Schoodic; and as this proposal placed the source of the Sainte Croix on a meridian considerably to the westward of the point named as the source of the river by the third Commissioner, it was acceded to on the part of His Majesty, and brought about what was evidently a very desirable object; an unanimous decision of the three Commissioners, who accordingly, by their declaration, established the river Schoodic, and the northern branch of that river to its source as the river Sainte Croix, truly intended in the treaty of 1783. The declaration of these Commissioners is thus spoken of by the President of the United States in his speech to Congress, December 8th, 1798. This decision it is understood will preclude all contention among individual claimants, as it seems that the Schoodic and its northern branch bound the grants of lands which have been made by the respective adjoining governments. I have been thus particular in the history of the decision with regard to the river Sainte Croix, which was a matter of notoriety at the time, and it is reasonable to suppose may be substantiated by documents in the hands of those officially connected with the transaction, because the

writers in the State of Maine, in a spirit by no means liberal or magnanimous, speak of it as one in which an advantage was obtained over the United States, and made a merit of the State of Maine and Massachusetts having quietly submitted to it; whereas if national controversies are to be weighed in the same narrow scale as the disputes of obstinate litigants in a municipal court, the advantage may be fairly said to lie on the part of the United States, for it appears to me that the course pursued by the Commissioners under the treaty of 1794, with regard to the source of the *Sainte Croix*, is clearly erroneous, upon the principle which established the river itself to be the true *Sainte Croix*.

"That principle is shortly this: the river *Sainte Croix* intended in the treaty of 1783, is a river, a due north line from the source of which, forms one side of the north-west angle of Nova Scotia, and therefore was a part of the western boundary of that Province. The river which was a part of the western boundary of Nova Scotia, is the river intended by the name of the *Sainte Croix* in the original erection of that Province, by the grant of King James the 1st to Sir William Alexander in the year 1621, and in that grant described thus:—"The river commonly called by the name of the *Sainte Croix*, and to the most remote spring or fountain from the western part of the same, which first mingles itself with the aforesaid river." The river thus described in this grant to Sir William Alexander is the river called *Sainte Croix*, by the first French voyagers there, in the year 1604. The particular and minute description given by these voyagers of the river which they called *Sainte Croix*, and especially of a small island in the mouth of that river, on which they wintered, correspond exactly with the river *Schoodic*; and a small island in the mouth of that river, a short distance above Saint Andrews, called by the French *Isle Sainte Croix*, since called *Bone or Docoo's Island*, on which island were found in the year 1799, and probably exist to the present day, indubitable traces of the habitations described with such minute particularity by the French historians of the voyage of 1604; and the description of these historians will correspond with no other river or island in that neighbourhood. The river *Schoodic* is therefore the river intended in the grant to Sir William Alexander, as a western boundary of Nova Scotia; and if so, by the description in the grant, should be followed as a boundary to its most western source or spring, which according to the principle would be the true boundary of the treaty of 1783. But as a measure of accommodation suggested by the person to whom the management of this matter was entrusted by the United States, and acquiesced in by all the parties, the source of the *Sainte Croix* was fixed at a point on a meridian several miles to the eastward of the source designated in the original declaration of the western boundary of Nova Scotia; and is, therefore, in so far an advantage to the United States. Now, I cannot think that this designation of the source of the river *Sainte Croix*, by the Commissioners under the 5th article of the treaty of 1794, can be defended upon the principles which must demonstrably have governed their decision. And His Majesty's subjects in this quarter would be well justified in complaining of it, if it had not been yielded to, for the purpose of preventing a more unfavorable result, according to the original decision of the umpire in the selection of a point lying on a meridian line several miles further to the eastward, as the source of the river, and if its effect on the interior boundary were of material moment. But the fact is, that if the most western source of the *Schoodic* had been decided to be the source of the *Sainte Croix* under the treaty, it would have carried the line running due north from that point, only about ten miles further to the westward,* and if the river *Saint John* is to be

crossed by this due north line, according to the claim set up by the Americans, in the controversy now subsisting, such line, from the most western source of the *Schoodic*, would have crossed the *Saint John* about fourteen miles above the Great Falls; and as to its pernicious operation as a boundary would not vary substantially from a north line running from the monument at the source of the *Cheputnatook*.

But, say the American writers, the *Sainte Croix* intended by the treaty of 1783, is not the *Sainte Croix* of Sir William Alexander's grant in 1621, nor the *Sainte Croix* so named by the *Sieur De Monts*, in 1604, but the river marked by the name on Mitchell's map, which map was before the Commissioners who negotiated the treaty of peace in 1783, and the river marked on that map, as the *Sainte Croix*, is the next great river westward of the *Saint John*, and is clearly the *Magaguadavic*.

"This map of Mitchell was published in the year 1755, prior to the erection of the Province of Quebec, and the introduction of highlands as a northern boundary of these seaboard Provinces, in the year 1763. This map as it regards the Bay of Passamaquoddy, and the rivers issuing into it, is evidently erroneous and imperfect; so much so that I will confidently assert that not one of the rivers, or the islands of this bay, would be known with certainty from a comparison of the delineation of them in the map, with the natural objects as they exist. But there is a characteristic of the river, which the compiler of this map calls the *Saint Croix*, not to be mistaken, and that is a line of boundary traced along the western side of the river, and the lake at the source of the river, and along the northerly side of the lake, to the most northern part of it, and thence in a north course to a small river, the *Saint Barnabas*, emptying into the *Saint Lawrence*, on one side of each line the country is called *New England*, and on the other *Nova Scotia*. Now, in the grant of 1621 to Sir William Alexander, the boundary of *Nova Scotia* is continued from the source of the *Sainte Croix*, as before quoted, by an imaginary direct line which may be conceived to go over the land, or run towards the north to the nearest bay, river or spring, discharging itself into the great river of Canada. There can be no doubt then, that the boundary line thus traced on Mitchell's map, indicates what was at the time esteemed to be the boundary of *Nova Scotia*, from the mouth of the *Sainte Croix* to the *Saint Lawrence*; and this boundary is the boundary described in Sir William Alexander's grant. If then, the river called *Sainte Croix* in Sir William Alexander's grant is the river so called by the French in 1604, and this river is demonstrably, unless the face of nature be changed, the *Schoodic*; the proof is perfect that the *Schoodic* is the river intended by the name of *Sainte Croix* in Mitchell's map.

"It is worthy of remark also, that there is a river marked on this map on the eastern side of *Passamaquoddy* bay probably intended for the *Magaguadavic*, which it is also probable, in consequence of the falls so near its mouth, had not then been explored, and so its size and extent were not then known.

"Similar considerations might be applied to prove that in all the authentic maps published from the time of the original erection of the Province of *Nova Scotia*, in 1621, to the peace of 1783, the river called *Sainte Croix* is intended to be the river originally designated as the western boundary of that Province, under that name."

* It is about 18 miles.—A. W.

No. 7.

Extract from the Report of Colonel Richard Z. Mudge and G. W. Featherstonkaugh, Esquire, 1840.

"We come now to speak of the treaty of amity, commerce and navigation with the United States, which directs the manner in which the river Sainte Croix is to be identified. By the 5th article a Commission was appointed, consisting of one Commissioner from each country, with power to choose a third. The three were to be sworn to decide, according to evidence,

"What river is the river Sainte Croix intended by the treaty?"

"They were to furnish a description of the river, and to particularize the latitude and longitude of its mouth and source."

"And their decision was to be 'final and conclusive.'"

"They had thus two objects to accomplish, one to identify the river, the other to fix the latitude and longitude of its source. We have already shewn; First, that the grant of Nova Scotia in 1621, made the westernmost waters of the Sainte Croix a part of its boundary; Secondly, that the boundary in the charter of 1691, was thus described:—"The territory called 'Acadia or Nova Scotia, and all that tract of land lying between the said territories of Nova Scotia and the said Province of Maine;" and in another part of the said charter in these terms:—"The lands and hereditaments lying and being in the country or territory called Acadia or Nova Scotia, and all those lands and hereditaments lying and extending between the said country or territory of Nova Scotia, and the said river of Sagadahoc or any part thereof." And thirdly, we have shown that the Congress in 1782 adopted a Report from one of their Committees which declared, "With respect to the boundaries of the States, &c., Massachusetts claims under the charter granted by William and Mary, October, 1691:" a declaration, which, as we have remarked at page 90, Mr. John Adams, under oath stated to have received the sanction of the American Plenipotentiaries upon concluding the preliminaries of peace in 1782. "One of the American Commissioners," said Mr. Adams, "at first proposed the river Saint John, as marked on Mitchell's map, but his colleagues observing that as the river Sainte Croix was the river mentioned in the charter of Massachusetts Bay, they could not justify insisting on the Saint John, as an ultimatum, he agreed with them to adhere to the charter of Massachusetts Bay." We have thus a regular recognition of Massachusetts being bounded upon Nova Scotia, and of the most western waters of the Sainte Croix forming part of the boundary of Nova Scotia. And how was the duty of the Commissioners under the treaty of 1794 performed? Disregarding the obvious propriety of choosing the most western source of the river, they fixed upon the north branch; and this in the face of the most extraordinary evidence against their proceeding. For the Scoodeng, (Schoodic,) which is the known Indian name of the Sainte Croix, runs from its most western source to its mouth under the same name of Scoodeng, whilst its northern branch, which comes in at the upper falls, bears the separate name of Cheputnaticook.

The westernmost sources of the Scoodeng are in a low flat lake country, consisting of many lakes running into each other, and hence the Indian name given to that part of the country and to the river, for Scoodeng

means low swamp meadow. Now the very continuity of its name should have convinced the Commissioners of the impropriety of deviating from that line. But the British Commissioner was overruled. He had, in conjunction with the American Commissioner, chosen an American gentleman, upon whose intelligence and integrity he relied, for the third Commissioner. This gentleman was in fact an unswerving to decide all differences which might arise; and the American Commissioner having claimed a stream called Maguadavie, lying still further to the east than the Cheputnaticook, to be the true Sainte Croix, the British Commissioner consented to a compromise, the result of which was, that although they made a correct decision as to the identity of the Sainte Croix, they practically decided to adopt the north source, as if it had been the most western source.

"That these gentlemen went out of the line of their duty, as prescribed in the treaty of 1794, is evident; and much future expense and misunderstanding would have been saved if their Report had been restricted to the identification of the river. This will be seen by looking to the map.

"The Saint John like all other large rivers, occupies the lowest level of the country through which it flows, and holds its course through a valley of considerable breadth, which below Mars Hill extends in a modified manner, some distance to the westward of the bed of the river. The nearer a due north line could be brought to the Saint John, the better the chance was that it would run up that valley, whilst the further it lay to the west, the greater was the certainty of its missing that valley and of its more speedily meeting the highlands of the country. And this has in practice proved to be the case; for the exploratory north line drawn from the monument, reached no highlands until it came to Mars Hill, whilst if the line had started from its true point, the westernmost waters of the Scoodeng, it would have reached the "highlands" about twenty five miles south of Mars Hill, near to the point where they separate the Sainte Croix, (a tributary of the Roostuc) from the waters of the Meduxnakeag, which flow into the Saint John."

No. 8.

Report of Colonel Joseph Bouchette, Surveyor General of Lower Canada, in relation to a Survey of part of the exploratory due north line from the Source of the River Sainte Croix, 1817.

"To the Commissioners appointed to settle the Boundaries between His Britannic Majesty's Colonies in North America, and the United States, under the 5th Article of the Treaty of Ghent."

"In pursuance to the instructions received from the Board of Commissioners, dated Boston, 11th June, 1817, ordering John Johnson, esquire, surveyor general on behalf of the United States, and myself, as surveyor general appointed on behalf of His Britannic Majesty, to survey that part of the boundary line between the dominions of His said Majesty and the United States, to that point of highlands lying due north from the source of the river Sainte Croix, and designated in the treaty of peace of 1783, between the said two powers, as the north west angle of Nova Scotia; thence, along the said highlands which divide those rivers, that empty themselves into the river Saint Lawrence, from those which fall into the Atlantic Ocean to the north westernmost head of the Connecticut river, thence along the middle of that river to the 45th degree of north latitude;"

"I accordingly proceeded without delay, to Saint John, New Brunswick, where I was joined by Colin Campbell, esquire, assistant surveyor, who had, by the directions of the Honorable Ward Chipman, esquire, engaged the chain bearers and axemen for the surveying party, the provisions, stores and camp equipage being also provided, and Mr. Johnson having arrived on the 3rd. July, we were enabled to set out for Fredericton, in the steamboat, on the 9th., and from thence continued up the Saint John in batteries, to the Meduxnekeag Creek, the place fixed upon as the most contiguous and convenient for our general depot of stores and provisions, which were put in charge of Captain R. Smith, residing there, and who agreed to furnish us with such parts thereof, as would be wanted from time to time at the line.

"On the 21st the parties proceeded towards the monument by the Houlton Town road, whilst I went up the creek with the Indians to explore the same, and joined the parties on the 23d, three miles into the woods, as they were progressing towards their place of destination.

"On the 23th arrived at the monument at the source of the Sainte Croix, and established our camp on a rising ground about five chains E. S. E. of the line, whilst Mr. Johnson selected another situation to the S. W. of it, a short distance from ours.

"From the 26th to the 31st I was attentively engaged in taking astronomical observations, and ascertaining the variation of the magnetic needle. Having calculated the transit of Polaris over the meridian, it proved to be an unfavorable and unpropitious time for observation. I therefore concluded to determine the variation by the eastern elongation of Polaris, and found by successive nights of observation, the variation to be 13 degrees 46'—4. W., and 13 degrees 46'—0 W., whilst Mr. Johnson at his camp made the variation by similar observations, 13 degrees 46'—0 W., and 13 degrees 50'—0 W., making a difference between his latter observations and my own of 9—58, which afterwards proved to be a difference in the two instruments only; but the cause from whence the difference arose was not discovered until it was agreed by Mr. Johnson and myself to take joint azimuth observations.

"In the forenoon of the 31st I went down with Mr. Johnson, accompanied by the assistant surveyors, to finally examine the several marks and blazes on and about the old monument, which we found as follows, namely: a cedar stake at the head of a small stream marked S. T. xviii. s. t. south five feet two inches from which is a yellow birch tree, about eight inches in diameter, leaning to the east, hooped with iron, the easterly part of the top is cut off, and some other old marks, but no distinct letters; at the foot of said birch lies a cedar log in a N. E. and S. W. direction, hewed on the S. E. side, and marked 1797, SILVANUS SAWYER; nine feet south of said birch is a fir blazed; 16 feet S. 34 degrees E. of birch is a black ash blazed; 16 feet N. 40 degrees W. of birch, is an old cedar blazed, which has fallen down; 13 feet two inches north of birch is a fir tree, marked I. Y. 1797. November 25th, 18 feet north of birch is a fir stub, marked I. C.; at 29 feet 10 inches north 10 degrees east from the birch tree is a black ash tree marked E. M. 1797; 10 feet east of which is a spruce tree marked T. T. November 25th 1797; near which is a cedar spotted; about 14 feet east of said birch is a cedar lying down, on which is marked Joseph Blackby November 25th. By an examination of the number of strata grown on the trees since the above said marks, it appears they were marked in 1797. In the afternoon of the same day, and in the presence of the assistant sur-

veyors, chain bearers and nearly the whole of both parties, we erected a new monument, or cedar post, where the old stake stood, in direction of the line, near the yellow birch tree, of 13 feet long, and 8 inches square, hewed, and the following inscriptions marked thereon; viz. New Brunswick, July 31st, 1817, in one line, on the east side, Col. Jos. Bouchette, H. B. M. SURV. GEN.; on the north side, in one line Var: 13 degrees 51'—3 W., by one instrument, and 14 degrees W. by the other. United States July 31st, 1817, in one line on the west side; and JOHN JOHNSON, U. S. SURVEYOR and S. GEN. V. T. on the south side in one line; and on each side thereof were placed large rocks, about 20 inches diameter, on which was inscribed N. B. July 31st, 1817, J. B. on the eastern side; and U. S. July 31st, 1817, J. J. on the western side, the whole surrounded by heaps of stones.

"On the 1st day of August, Mr. Johnson and I met at my camp, by appointment, to take azimuth observations for the final adjustment of the variation; and nine sets of corresponding altitudes having been taken with every possible degree of care and accuracy on our part, by a correct and well graduated theodolite, as constructed by Browning and Rust, London, of 7½ inches diameter, the nonius showing 20s., with vertical arc and telescope, we found the variation to be 13 degrees 51m. 2s., by my instrument, and 14 degrees by the south end of the needle of that of Mr. Johnson's, the former agreeing with the mean of the observations of the eastern elongation of Polaris; the variation of the magnetic needle was accordingly determined to be 13 degrees 51m. 2s. W., and at the request of Mr. Johnson, 14 degrees was also inscribed on the boundary post.—The line was immediately departed for the purpose of employing the men of each party in cutting down the trees, and clearing the same; it was also prolonged some distance the next day. On the 4th we commenced the actual survey, and departed the meridional line with Dollond's improved theodolite, with vertical arc and telescope, and by staffs and plummets; Mr. Campbell's circumferenter was also placed upon the line, and gave the course by the needle, N. 13 degrees 51m. 2s. E., the course agreed upon, and N. 14 E. by that of Colonel Turner's; we then extended the line to the one and a half mile ridge, opening the same 16 feet in width, and planting posts or stone boundaries at the distance of every mile, marking the number of miles thereon, with N. B., J. B. on the east side, and U. S., J. J. on the west.

"And in conformity to the second article of our instructions, we gave up the charge of the permanent line to the two Assistant Surveyors, with such directions and instructions as were deemed necessary for their guidance; then went to Houlton Town to make the previous arrangements for the exploring survey, leaving my theodolite in charge of Mr. Campbell, to enable him and Col. Turner to continue the line until they were provided with another.

"From Park's field, a fine elevated situation, and from which the country can be viewed to advantage, Mr. Johnson and I agreed to take azimuth observations, and the bearings of the principal range of highlands extending from Mars Hill to the Catahdin mountain, the general course of which is N. N. E. and S. S. W. and highly conspicuous, for its height, and diversity of appearance, the land descending by gradual ridges and slopes towards the Houlton Town settlements, and producing altogether a lively and truly picturesque scenery: on the 18th we entered the woods, and commenced on the exploring line from the 4th mile post; divided the parties and proceeded on after passing Houlton Town, descended for some time in low swampy land, but ascended as we approached the banks of Meduxnekeag creek, which are high and

steep where the line intersects it; this river is extremely crooked, and in many places very rapid and shallow, containing numerous islands; it divides itself into two branches. Three miles east of the line, at which place there are falls of 14 feet 9 inches in height and a portage of sixty rods; the settlements on this river, that connect with those on the Houlton road, are about $4\frac{1}{2}$ miles up the river from the line; from thence to the Presqu'Isle river the land generally ascends gradually until you approach the river; then the ascent is conspicuous; from the summit of the bank, I had an opportunity of viewing the face of the country, from the top of a tree, and discovered Mars Hill, bearing about N. 24 degrees W., and a range of highlands stretching to the S. W. with other higher, but more distant objects in the rear; from the Presqu'Isle, which is bounded by high banks, the land rises considerably; but on approaching Mars Hill, you descend into a kind of valley, until you again ascend at the river Goose-quick; then a most conspicuous ascent presents itself between this and river des Chutes, which seems to appear as if it was connected with Mars Hill highlands, and only descends at the river des Chutes, where we encamped and took an observation on the transit of Polaris over the meridian and found the variation to be 14 degrees 15m. W. From the southern bank of this river, I had again an opportunity of climbing a tree, from the top of which I took a view of the face of the country, discovered a conspicuous ridge of highlands, stretching in the direction of about N. N. W. and S. S. E. supposed distance eight or nine miles; took the bearing of the points thereof; from which ridge we actually ascended; and afterwards the land descended, by gradual slopes, towards the river Arestook, where we encamped on a delightful island, nearly connected with another, which I proposed to Mr. Johnson should be called Commissioners' Islands; at this place we took azimuth observations, and the transit of Polaris over the meridian, determined the variation to be 15 degrees 20 W. on the 14th September. Between this river and the river Saint John, in the direction of the line, the land is extremely high, and more conspicuously so, between the 69th and 74th mile, which I consider to be the Great Fall ridge, and like most of the ridges we have intersected, directs its course towards the S. S. W. Intersected the river Saint John on the 23rd September at the distance of 77 miles 25 chains and 10 links, then went down to the Great Falls with our respective parties; the men, as well as ourselves, were exhausted by fatigue, and were glad to have an opportunity of recruiting.

"On the 30th we again proceeded on the line with twenty days provisions, from the river Saint John, after having ascended its banks, and until we reached the 91st mile, the ascents and descents were not materially conspicuous, but we went over several pine ridges, and through several swamps; from the 91st mile the land generally ascended until we intersected a large stream, which we at first took to be the Grand river, but proved afterwards to be the river which empties itself close to the Great Falls on the river Saint John; from that river the land generally ascends to the Restigouche Portage, which we intersected at 97 miles, 32 chains and 80 links. This portage leads from the little Wagansia, on the Grand river, to the Great Wagansia on the south branch of the Restigouche; it is extremely crooked, six miles in length, and its general course is N. N. E. and S. S. W. but where it was intersected by the line it bore N. 50° E. This part of the country is conspicuously high, and is the summit of a range of highlands, which stretches towards the S. W. and another branch seems to detach itself at no considerable distance to the west, in a N. W. direction: the descent at the Wagansia, is steep, and sometimes descending alternately by gradual and steep ridges at a distance of 43 chains; at 89 miles deviated from the

course of the line, on a bearing astronomically N. 54° W. 4 chains to the Great Wagansia, or first branch of the waters of the Restigouche, where we ended the exploring survey.

"All which is respectfully submitted,

"Jos. Bouchette,

"His Britannic Majesty's Surveyor
General, under the 5th Article
of the Treaty of Ghent.

"Burlington, 21st May, 1818."

No. 9.

Report of William F. Odell, Esquire, Surveyor of New Brunswick, made on the part of His Britannic Majesty, in relation to a survey of the residue of the exploratory line north line from the source of the River Sainte Croix, 1818.

"On Saturday the 11th July, 1818, I met Mr. Johnson, the Surveyor on the part of the United States at Madawaska, from which place, as soon as the necessary arrangements could be completed, we proceeded up the Grand river, a branch of the river Saint John, to a portage leading to the Wagansia, and thence by the Indian Path to the 99th mile tree marked last year, where we arrived with the provisions and baggage on Monday the 29th. The ground here being swampy and unfit for observations, Mr. Johnson proposed to continue the line to the Restigouche, and there ascertain the magnetic variation. This was accordingly agreed to and the line was continued on a course north 16° 30m. east by magnet to that river, a distance of a little more than two miles and a half; here, by a mean of the observations made by me, the magnetic variation was found to be 16° 19m. 56s., and by Mr. Johnson 16° 20m. west. The instrument for running the line (a circumferenter belonging to Mr. Johnson) was therefore fixed agreeably to this variation, and the exploring line commenced on a course north 16° 20 east by the Magnet. From the 99th mile tree to the Restigouche, the land, with the exception of a few insignificant rises near the river, is low, flat and swampy, and chiefly covered with spruce and cedar.

"The river Restigouche was intersected by the line about two miles below the mouth of the Wagansia, at which place it is 80 links wide, and is navigable for loaded canoes, its course down stream, is northerly for a short distance, and afterwards nearly north east. From the mouth of the Wagansia, the course of the Restigouche, up stream, is north-westerly, and from its size, depth of water and current, its source must be considerably distant.

"At the distance of about 12 miles from Restigouche, we met with a stream, which was supposed by some French men, who were employed as Labourers, to be what is called the Petite Fourche, or Little Fork of the Restigouche. This is a very clear stream, about five feet deep where the line crosses it, and one chain in width, and from its appearance, would be easily navigable for canoes, but it is stated by the hunters to be full of rapids, which render the passage with boats impracticable. The course of this stream is from north west to south east, and from its size and quantity of water, it must take its rise considerably to the westward of the line.

"The land between the Restigouche and this stream is covered with a luxuriant growth of timber, which on the tops of the hills is chiefly birch and maple with some

ash; about two miles south of the Petite Fourche, in a tract of uncommon fine maple land, we found marks of the trees having been tapped for the purpose of making sugar: at the Petite Fourche the variation was found to have increased, and the instrument was set to 16 degrees, 43'.

"About six miles north of the Petite Fourche is another stream about fifty links in width, running easterly; the appearance of the land in this district much the same as before described.

"About ten miles north of this last mentioned stream, we came to the Grande Fourche or Large Fork of the Restigouche, the largest branch of that river; this stream is two chains wide, easily navigable for loaded canoes, from the temperature and softness of the waters seems to come out of a lake, and it is so reported by the hunters, that whatever be the source, it must, from the size and appearance of the stream, be far to the westward. A branch comes into this stream about two or three miles above where the line crosses it. The general course of the Grande Fourche is south eastwardly to its junction with the Restigouche. The variation here was settled at 17 degrees, 22m. 30s., and the instrument set accordingly.

"By inspection of the map accompanying this Report, it will appear that the whole tract passed over by the line from the Restigouche to the Grande Fourche, is broken into ridges by small streams and deep ravines, the banks of which are in general very steep; these ridges, however, appear to be only ranges of land dividing the several branches of the Restigouche from each other, and extending generally in the direction of those branches, but with such variations in their shape and figure as are occasioned by the small streams with which they are intersected.

"The general face of the country may be considered as increasing moderately, in elevation from the Restigouche northward, to within two or three miles of the Grande Fourche, and then descending very rapidly to that stream. It is well wooded with a luxuriant growth of tall trifly timber, a mixture of hardwood, fir and spruce with some pines. The mountain ash is abundant, and there are a very few wild cherry trees. Contrary however to what is usually met with, the soft woods grows mostly in the valleys, and the hard wood on the tops of the hills. The greater part of this extent appears to be excellent farming land. The river Restigouche from where the line intersects it, down stream, is copied from a map: its general course however, so far as I can judge, from the bearings and observations taken in a canoe as we returned from our camp on the Grande Fourche to the Wagansis, is correct; and from the estimated distances from where the line intersects the Grande Fourche to the mouth of that stream, and thence up the Restigouche to the Wagansis, and from the appearance of the current in both these streams, I am of opinion that there is not much, if any, difference in the level of the water at these two places. Immediately after crossing the Grande Fourche, the ground rises very steeply for about three quarters of a mile, and very moderately for a quarter of a mile more, forming a high bank to the river, and pursuing apparently the same course with the stream, and has the appearance of being the highest point intersected by the line run this year; it then descends, moderately, all the way to the Beaver river, hereafter mentioned; the surface, however, diversified into hill and dale like the rest, by the ravines and small streams with which it is intersected; but the ravines are not so deep, nor the banks of the streams so steep as those to the southward of the Grande Fourche; this tract also is well wooded with a tall luxuriant growth of timber, chiefly fir and spruce, with a mixture of hard wood and some pine.

The pine however is mostly found near the borders of the Grande Fourche. I also met with some of the largest cedars that I have ever seen.

"On the 2nd September we arrived at a stream fifteen miles and a half north of the Grande Fourche, running to the westward, to which we gave the name of Beaver river; on the borders of this stream, where the line intersected it, is a piece of low wild meadow, which was then overflowed in consequence of a dam made by the beavers, which had formed a large pond, above which are two smaller ponds, and immediately below the dam the stream is about two rods wide, the water quick and clear; at a short distance from the stream on both sides, the ground rises moderately, but the elevation is very small, and there is no appearance of highlands.

"This being the first stream of any consequence that we had met with running to the westward, I agreed with Mr. Johnson to halt and examine it. I accordingly sent a party up stream, who reported that they had pursued it between two and three miles, and had found it generally from twenty to thirty feet wide, and from six to eighteen inches deep, with a number of old Beaver dams, the current gradual, and the general course from the south-east to the north-west. The next day I sent Mr. Campbell (my assistant) with one of Mr. Johnson's party and some labourers to explore the stream downwards, remaining myself at the camp to make some observations for ascertaining the magnetic variation; and I beg leave to refer for particulars to Mr. Campbell's Report, which is hereto annexed.

"A party was also sent northward in the direction of the line, who reported that at the distance of about three miles, they had fallen in with another stream running eastward, which we supposed was the Metapediac, a branch of the Restigouche, but from information which I have obtained, since my return, I am induced to think it is a branch called by the Indians Pedaiviguac, which empties into the Restigouche considerably above the Metapediac.

"It appearing by the Report of the exploring party, that the Beaver river must communicate with the Saint Lawrence, Mr. Johnson and myself considered our instructions so far fulfilled, and agreed to return. For more particulars of all this service, I beg leave to refer to the field book, and to the journal which was kept of our daily operations.

"On the 18th September the party reached the river Saint John and proceeded to Mars Hill, where they arrived on the 28th and were employed until the 3rd October in clearing away the wood on the south peak, in order to get a view of the surrounding country, the same thing was done by Mr. Johnson's party on a part of the north peak, looking to the south-west.

"The north peak was found, by a survey made by Mr. Hazen, to be about six miles, in a westerly direction, from the mouth of the river des Chûtes (a small branch of the Saint John) from which place the general surface of the ground rises moderately for about five miles, and steeply for the rest of the way to the top of the peak, which is distant, by measurement, on a due west course, one mile and six chains from the exploring line run last year, and fifteen chains and seventy-six links, south of the forty-second mile tree.

"The south peak is distant by calculation, from the north peak, one mile seventy-five chains and twenty-five links, on a course south 20 degrees 57 minutes west, by magnet, and exceeds it, in height, upwards of one hundred feet. Between the north and south peak, is another peak lower than either.

In a south-westwardly direction from Mars Hill, and about sixty miles distant, is a range of very high and apparently bald mountains, extending in a westerly direction, called by Mr. Johnson, "the Spencer Mountains;" and connected with these and extending round to the north-west, are a number of high and conspicuous hills, all connected by lower ranges of land; and in a direction a little southward of the line of view from Mars Hill to the Spencer Mountains, is another high mountain, of a conical shape, distant about forty miles from Mars Hill, supposed to be Cathadin, and apparently connected with Mars Hill and the Spencer Mountains, by ridges which cannot be particularly described, the ground in that quarter being in every direction, all high, broken land, but viewed from Mars Hill appearing to rise generally from the foot of that hill, towards the Cathadin Mountain and Spencer Mountains.

"On the north-east side of the river Saint John, the land appears high, and broken into hills and ridges, stretching in all directions without regularity, and in the southern quarter there appears some very high land, which seems to stretch round to the east, but so distant that its direction could not be clearly ascertained.

"In the due north direction there appears to be less inequality in the face of the country than in any other.

"The timber upon the north and south peaks of Mars Hill is principally hardwood, which at the foot of the hill is a very thrifty growth, but lessening in height very conspicuously towards the top, and on the summit is very short, with low spreading branches.

"On my return from Mars Hill homeward, I halted the party on the 12th October at the mouth of Meductic river, and proceeded with Mr. Campbell and two or three labourers to Parks, near the Houlton settlement. Looking westward from this place, which is itself considerably elevated and is easily seen from the top of Mars Hill, there appears a continued range of highland, the view of which is terminated on one side by Mars Hill, and on the other by the Spencer Mountains; and in this range there is a number of conspicuous hills, among some of which as I was informed by Parks, there is reason to suppose that the Restook river takes its rise. Parks' information was derived partly from Indians and hunters, and partly from the fog which he had often observed rising among these hills. The mountain which we have called "Spencer Mountain" was considered by Parks to be the Cathadin, and he pointed out some hills lying a little north-east of this mountain, among which he said it is generally reported by hunters and others, that one branch of the Penobscot takes its rise.

"All which is most respectfully submitted,

"WILLIAM F. ODELL,

"Surveyor on the part of
His Britannic Majesty.

"To the Commissioners appointed
under the 5th Article of the
Treaty of Ghent, &c. &c. &c."

No. 10.

Extracts from the Treaty between Her Majesty and the United States of America, signed at Washington, August 9th, 1842.

"Whereas certain portions of the line of boundary between the British dominions in North America and the United States of America, described in the second article of the Treaty of Peace of 1783, have not yet been ascertained and determined, notwithstanding the repeated attempts which have been heretofore made for that purpose; And whereas it is now thought to be for the interest of both parties that, avoiding further discussion of their respective rights, arising in this respect under the said treaty, they should agree on a conventional line in said portions of the said boundary, such as may be convenient to both parties, with such equivalents and compensations, as are deemed just and reasonable.

"Article 1st.—It is hereby agreed and declared, that the line of boundary shall be as follows: Beginning at the monument at the source of the river Sainte Croix, as designated and agreed to by the Commissioners under the fifth article of the treaty of peace of 1794, between the governments of Great Britain and the United States; thence north following the exploring line run and marked by the surveyors of the two governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river Saint John, and to the middle of the channel thereof; thence up the middle of the main channel of the said river Saint John, to the mouth of the river Saint Francis; thence up the middle of the channel of the said river Saint Francis, and of the lakes through which it flows, to the outlet of the lake Pohenagamook; thence south westerly, in a straight line to a point on the north west branch of the river Saint John, which point shall be ten miles distant from the main branch of the Saint John, in a straight line and in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river Saint Lawrence from those which fall into the river Saint John, then the said point shall be made to recede down the north west branch of the river Saint John, to a point, seven miles in a straight line from the said summit or crest; thence in a straight line, in a course about south eight degrees west, to the point where the parallel of latitude of 46 degrees 25m. north, intersects the south west branch of the Saint John's; thence southerly by the said branch, to the source thereof in the highlands at the Metjarmette Portage; thence down along the said highlands which divide the waters, which empty themselves into the river Saint Lawrence, from those which fall into the Atlantic Ocean, to the head of Hall's Stream; thence down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins previously to the year 1774, at the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British Province of Canada on the other; and from the said point of intersection west along the said dividing line, as heretofore known and understood, to the Iroquois or Saint Lawrence river."

No. 11.

RISTIGOUCHE RIVER.

Seignior of Cloridon.

TITLE.

" Par Acte de Foi et Hommage rendu le 3me Juin, 1736, par Jean Claude Louet, au nom d'Anne Morin, son épouse, veuve de René d'Eneau et au nom du Capitaine René d'Eneau, son fils, pour le fief d'Eneau, il paraît qu'il exhiba une ordonnance de Mr. de Champigny, intendant, du 28me. Mars, 1691, annexée à une requête, faite par feu le dit Sieur d'Eneau, exposant que ses titres lui avaient été enlevés par les Anglais, et demandant d'être maintenu dans sa possession de la rivière Ristigouche, avec huit lieues de terre de front sur pareille profondeur, le long de la dite rivière, et les isles et batteries qui se trouveront devant la dite étendue, avec droit de chasse, pêche, etc. La susdite ordonnance accordant le contenu de cette requête, sauf seulement les oppositions que pourra faire Mr. de Fronsac, Seigneur de Miranichi. De plus, un accord entre les héritiers du dit feu Sieur René d'Eneau et Mr. de Fronsac, par lequel Cloridon fut borné comme suit, savoir, commençant à l'entrée de la rivière au Porcépic qui tombe dans celle de Ristigouche, en montant la dite rivière Ristigouche; et que les rums de vent des terres du dit Sieur d'Eneau soient nord-est et sud-ouest pour la profondeur, conformément à ceux du dit Sieur de Fronsac, et à l'égard du front ou largeur, sud-est et nord-ouest."

(Ins. Con. Sup. letter D, folio 53.)

This tract was purchased about the year 1784 by Messrs. Jeremiah, McCarthy and Angus McDoneil from the Heirs d'Eneau, but government having in the year 1786, by an agreement with the Micmac Tribe of Indians, limited their hunting grounds to the first rapids in the river Ristigouche, about two leagues above the River aux Loups Marins, and having besides granted on the remainder various occupation certificates to disbanded troops and refugee loyalists, it was taken back by the Crown, in 1787, by *droit de retrait*.

(True Copy.)

(Signed,) THOMAS PARKE,
Surveyor General.

Surveyor General's Office,
Kingston, 5th May, 1844.

No. 12.

Instructions from Lieutenant Governor Hope
to John Collins, Esquire, respecting the surveys
and settlements in the Bay of Chaleurs.

Quebec, 31st May, 1786.

SIR,—In order to obtain more full and perfect information on subjects of material importance to the tranquillity of many of His Majesty's subjects, and with the view also to secure their welfare, as well as the ad-

vantage and prosperity of the fisheries in that quarter, by the establishment of just and suitable local regulations. In concurrence with the opinion of His Majesty's council of this Province to whose deliberations I have submitted several papers on the subject; I am now to direct that for the better attainment of these purposes you do, with all convenient despatch, proceed to the Bay of Chaleurs, there to carry into effect the following objects of my instructions:

You will in the first place make an exact survey of all lands now held in possession by Acadians, Canadians, and Europeans in the Bay, distinguishing whether with or without grants or other written titles, and ascertaining the number of acres claimed by each settler, and how many thereof are in culture, you will also make faithful extracts of all such grants and other titles as may be produced to you in consequence of my Proclamation of the 9th instant, in order for your reporting to me fully on this subject on your return to Quebec.

You will next proceed to survey one thousand acres of land, beginning at a small island coming down towards the point which makes the western side of the river called Great Cascapebiac together with the small island above mentioned, and make a report thereon to me, in order that a grant of the said one thousand acres may be made to Messrs. Robin Pilon & Co. conformable to the order of the King in Council. I must however particularly recommend to your observation, and that you will point out to me, if it should appear to you that a grant of the quantity of land above described as demanded by Messrs. Robin Pilon & Co. would in any shape interfere with the prior rights of the Acadians or others, with the claims of the Indians, or with the general benefit and prosperity of the fisheries. In the course of your enquiries on these objects, I must desire you will particularly inform yourself on the state of all lands which have been granted, but which remain unsettled and unimproved by the parties to whom the grants were made.

I must also request that in concert with Lieutenant Governor Cox you will make the state of the fisheries below the subject of your enquiries, using every means in your power to collect such information as may form a proper basis for establishing suitable regulations on this important object.

The rights of the Indians in that quarter will likewise justly claim your attention, the points to be punctually enquired into appear to be their claims to the exclusive right of the Salmon Fishery on the river Ristigouche, to certain lands and the produce thereof adjoining to the settlements lately made by loyalists and others, and generally into the extent and situation of such hunting grounds as they lay claim to.

To prevent difficulties arising by the jarring of the interests of individuals, it has been lately found expedient to assume, for the King, the Seigneuries of Port Daniel and Ristigouche, by the *droit de retrait*, from persons who had offered the same for sale, as in using the right of *retrait* in this instance there was no intention to deprive the proposed purchasers of any advantages that might be derived therefrom, if not inconsistent with the rights and privileges of the Indians or settlers in that quarter. I must request you will particularly examine into the consequences which might result from privileges annexed to the said seigneuries, remaining possessed by individuals, in order that after the reservation of such thereof as might prove prejudicial to the interests of the Indians and new settlers, or beneficial in any other respect to government, the proposed purchasers may have an optional preference

in the acquisition of these seigneuries, if again to be disposed of.

I am with due regard,
Sir,
Your most obedient humble servant,

(Signed,) HENRY HOPE.

To John Collins, esquire,
Deputy Surveyor General
of the Province of Quebec.

(True copy.)

(Signed,) THOMAS PARKE,
Surveyor General.

Surveyor General's Office,
Kingston, 9th May, 1844.

No. 13.

A Report to His Excellency the Right Honorable Guy Lord Dorchester, Captain General and Governor in Chief of the Colonies of Quebec, Nova Scotia and New Brunswick and their Dependencies, Vice-Admiral of the same, General and Commander in Chief of all His Majesty's Forces, in the said Colonies and in the Island of Newfoundland, &c. &c. &c.

MY LORD,—In obedience to your Lordship's order in council the 8th instant, I have set off from the annexed plan of survey made by Mr. William Vondenvelden the 21st day of November, 1787 for Isaac Man, Esquire, Senior, Isaac Man, Junior, John Man, Thomas Man, Esquire, William Man and Edward Isaac Man, a tract, piece or parcel of land containing two thousand five hundred and twenty acres *situate on the north side the river Ristigouche*, beginning at a stone boundary fixed on the bank of the west side of the river *Du-Loup* or *Porcupine* river, at the entrance of the same, and from thence running up the river *Ristigouche* the several courses of the water, making on a direct line, two hundred and forty chains to a stone boundary fixed on the bank of the river two chains above *Pointe à la Croix*. From thence north twelve degrees east one hundred and five chains to a boundary, thence south seventy eight degrees east, two hundred and forty chains to a boundary, and from thence south twelve degrees west, one hundred and five chains to the first station, including two thousand five hundred and twenty superficial acres.

(Signed) J. C.

Quebec 22nd May, 1788.

(A true copy.)

(Signed,) THOMAS PARKE,
Surveyor General.

Surveyor General's Office,
Kingston, 9th May, 1844.

No. 14.

Grant in Fief and Seigniority to John Shoolbred, Esquire, made on the 4th July, 1788, by Lord Dorchester, Governor-General.

Also, a certain other tract of land situate on the westernmost extremity of *Chaleurs Bay* running up the river *Ristigouche*, about 15 miles to the first point of land below *Battery Point*, beginning at a boundary line, 150 chains east of the bottom of the easternmost bay of *Nouvel Basen*, running north, 23 degrees east to the mountains, thence bounded by their course at an average depth of 40 chains from high watermark to their base, round *Nouvel Basen* westward to a small cove, 300 chains west of the said first mentioned bay, bearing from the northernmost extremity of *Migoacha Point*, being a sand bank north 64 degrees west, the superficial content of the said last described lands is 2080 acres. Also, a tract of land, beginning at the aforesaid cove, and running the several courses of *Point Migoacha*, to the western extremity of a salt marsh, distant from a point where the inaccessible *Point Migoacha*, about 80 chains, thence to the said point, containing 600 acres.

Also, a certain tract, beginning at the first mentioned point, below *Battery Point*, north 19 degrees and a half east, 80 chains, thence south 88 degrees east, 89 chains, thence north 33 degrees east, 80 chains, thence north 83 degrees east, 69 chains, thence north 56 degrees east, 107 chains, thence south 80 degrees east, 23 chains, thence south 50 degrees east, 58 chains, thence south 67 degrees east, 49 chains, thence north 68 degrees east, 88 chains, thence south 66 degrees east, 57 chains, thence south 65 degrees east, 84 chains, thence south 73 degrees east, 156 chains, thence south 29 degrees east, 95 chains, thence south 12 degrees east, 175 chains, thence south 11 degrees east, 55 chains, thence south 56 degrees west, 40 chains to *Yacta Point*, containing 6550 acres, more or less.

(A true Copy.)

(Signed,) THOMAS PARKE,
Surveyor General.

Surveyor General's Office,
Kingston, 9th May, 1844.

No. 15.

Description of the Ristigouche River from a Topographical Dictionary, of the Province of Lower Canada, by Col. Joseph Bouchette, Surveyor General of Lower Canada, London, 1831.

"Ristigouche river, divides about half of the county of Bonaventure from the Province of New Brunswick. It rises in many sources in the county of Rimouski, and falls into the Bay of Chaleurs, forming at its mouth a considerable expansion called Ristigouche Bay.

"The Indian village, called New Mission Point, is about 5 leagues up this river, at the head of the ship navigation, to which schooners and even larger vessels can ascend. From the Indian village the river is much interrupted by shoals during the dry season of the year to Mr. Adams's, a neat establishment and the last settlement in the district. The river forms between those two points a deep bay, along which are settled from six to eight families, much on the same

system as that of the Canadian farmers. At Mr. Adams's the river is divided into numerous channels by islands, some of which are one to three miles long; the southern channel is however the most navigable at all seasons. On the New Brunswick side flourishing settlements are to be seen, which, with the small church of the Mission in the distant perspective, and the prominent mountains to the south east, combine to enhance the beauty of the landscape. Proceeding onwards in a west by south course from Mr. Adams's, between several islands which contract the channel about the distance of one mile and a quarter, the river is interrupted by a considerable rapid, which is however easily surmounted by the surprising skill of the Indian in the management of his canoe, so peculiar to the Micmac tribe which inhabits this part of the country. At this place, on the south shore, there is a good road that runs along the Bay of Ristigouche, on which are settled, upon lots of two hundred acres each, about forty families. The land, which assumes a highland appearance, descends in a gentle slope to the river, and is thus rendered more practicable for a road and eligible for settlers. From this place the river takes a western course to the mouth of the Matapeadiac, interspersed with several small islands: its banks are clothed with mixed timber, amongst which, however, quantities of pine may be clearly distinguish-

"The country on this river is generally mountainous, from the Indian village to near the portage on the Waganis, and with little exception the hills advance to the edge of the water, appearing for the most part unfit for the purposes of agriculture, being in general stupendously high and steep, and in some places almost precipitous: there are, however, small intervals of alluvial land in some places; but they are not very frequent, nor sufficiently extensive for any considerable settlements. The face of the country near the river Waganis, and on the Ristigouche for some distance below it, is more level than in the lower parts of the latter river; but a settlement hereabout would labour under many disadvantages, arising from the distance of other settlements and the difficulty of approaching it. The borders of the river Ristigouche are covered with very fine timber for building, a great deal of which is taken for purposes of commerce. This river is remarkable for its salmon fishery, which formerly amounted to 3000 barrels; at present the whole amount of the salmon fishery in the district of Gaspé is estimated at only 2000 barrels per annum: the salmon is exported to Quebec, Halifax and the West Indies. This majestic river and its numerous tributaries branch over more than 2000 square miles of New Brunswick and Canada. The inhabitants at what may be considered the harbour of Ristigouche, and those at the thinly inhabited settlements at Nouvelle, Tracadigash and Cascapédiac, consist of a mixed population of English, Scotch, Irish, American and Acadian French, who employ themselves in the different occupations of fishing, hewing timber, and farming on a very humble scale. Eight miles up the Ristigouche is an Indian chapel, where the Indians occasionally form a small village of wigwams, which after a few weeks, they soon displace, and packing up these portable habitations with all their stock, embark with them in their canoes for some other part of the country.

"The trees, principally the fir tribes, grow to an immense height and size, and a great timber country may be opened on this river. The quality is in great repute among the timber dealers in England, especially in the port of Liverpool, and considered equal to that imported from Miramichi.

"The best timber grows in the valleys behind the mountainous ridges, which, in most places, follow the winding of the streams. The indefatigable lumberers, overcome natural obstacles that would stagger the resolution of other people, they cut the timber and haul it, in winter, to places where there is often no water in summer or winter, but which they well know will be overflowed when the spring thaws dissolve the snow on the mountains and in the woods."

No. 16.

Description of the Ristigouche river, extracted from a history of the northern part of the Province of New Brunswick, by Robert Cooney (of Miramichi N. B.) Halifax N. S. 1832.

"The Ristigouche or Big river, so called in contradistinction to the Miramichi, a somewhat smaller one, is the principal river in the county of Gloucester. It rises near Taumisquatic Lake, a large and beautiful pond supplying the Madawaska; is supposed to be more than 220 miles long; describes a general course of E. N. E.; is cherished by numerous appendant streams; and rolls through a large and commodious harbour, into the head of La Baie des Chaleurs, in conjunction with which it forms the separating line between Lower Canada and New Brunswick.

"As the settlements and principal local characteristics of this river, lie within 70 miles of its entrance, we shall commence our description at the latter, and thence proceed towards its source.

"The entrance of the Ristigouche is about 3 miles wide, and is formed by two higher promontories of Red Sandstone: the one on the north side, is called Point Magashua; that on the south, Bon Ami's Rock. This opening is bold, and finely developed; is accessible in all weathers; is not encumbered by a single bar or shoal; and contains upwards of 9 fathoms of water. On the south side, two miles above the entrance, is the town of Dalhousie, consisting of a few houses, and two or three mercantile establishments, of which the most extensive, is that of Messrs. Hugh and John Montgomery.

"The site of this town is a level eminence, and between it, and two small, but elevated islands in front, a good broad channel of 6 or 7 fathoms in depth, flowing towards the town, forms a fine safe harbour, where vessels may load within a quarter of a mile of the shore. The north, or main channel, commences between the Islands and Magashua, and flowing over a soft bottom, runs a W. S. W. course of 18 miles, carrying to that extent, a good traversable breadth, varying from 8 to 4 fathoms in depth. Here, after bathing the bed of a projection, it branches into two passages, which though narrow, are 3 miles long, and contain from 14 to 16 feet at low water. Four miles above this, whither the tide flows, the river is upwards of a mile wide; and from thence, to within 40 miles of its source, it is navigable for light canoes.

"Thus the Ristigouche, independently of its great agricultural and commercial resources, is eminently distinguished by two important maritime features, namely, it is in some degree, navigable for 180 miles from its entrance; and it contains a safe and commodious harbour, 18 miles long, 2 miles wide, and more than sufficiently deep for the largest class of British merchant men.

" At first view, the country, on both sides of this river, and all round it, even to the utmost verge of observation, presents an appearance exceedingly grand and impressive. Whatever way the eye wanders, before it lies a seemingly interminable region of hugo and lofty mountains. Nothing is to be seen but an almost immeasurable dispersion of gigantic hills, apparently rolling in every direction and breathing through an almost infinite number of lakes and rivers, glens and valleys. Of these mountains, some are elegantly flowered with tall pines; others sustain a fine growth of hard wood; many have a swampy summit, and several terminate in rich meadows and plains. Some of them are conically formed; many exhibit considerable rotundity; some are lank and attenuated, and others there are, whose figure and construction I confess myself unable to describe. Let the reader contemplate for a moment, this immense surface of geological incongruities; and while the sentiments inspired by this study are glowing in his bosom, let him fix his eye upon the landscape, taking care to remember, that an irregular, but extensive distribution of tremendous cliffs, darting their points through and far above the loftiest of the trees, dot it all over with bristling spires that seem to coquet with the clouds. For 70 miles from its debouchure, the river is lined on both sides by two stripes of high, but level land, extending upon an average, more than a mile back; with however, a few prominent elevations, occupying the very edge of the water, and maintaining a position, something like the bastions of a rampart.

" These two banks of table land, appear to be a stratified formation of red sand stone, and other secondary rocks, intermixed with limestone, coarse granite, &c., the whole overlaid by a loamy covering of clay and gravel. Immediately in the rear of, and all round these stripes, lie the desultory profusion of mountains I have endeavored to describe. The natural fertility of these plains, is considerably augmented by enriching contributions carried down from the mountains, by erosion, rain, overflowing of rivers, bursting of lakes, and other external agents. And thus cherished, they produce very luxuriant crops of wheat, oats, rye, barley, vegetables, &c.

" Proceeding towards the interior, to the distance I have mentioned, the river, from its own course and the disposition of the land, agreeably deceives you; at every six miles one seems to be entering a new lake. Having advanced about 70 miles from the entrance, the land becomes comparatively level. Here, and all the way towards the head of the river, is a fine bold and open country, consisting of a rich upland, skirted with large tracts of intervals, and covered with a dense and unviolated growth of mixed wood, in which large groves of pine are very conspicuous.

" Descending from generals to particulars, let us now take a closer view of this magnificent river. In a brief historical sketch of Gaspé, contained in the fourth part of this book, the reader will find a detailed account of an action that took place between the French and English on the Restigouche. We shall now notice the particular places more intimately connected with this transaction.

" As well to remove all doubt, concerning what I have advanced on this subject, as to obtain credit for what I am about to relate, it may be necessary to inform the reader, that I obtained the particulars from a demi-official account published in the monthly chronology of a periodical paper, intitled "The London Magazine, or "Gentleman's Monthly Intelligencer." Of this demi-official account, the following is an exact copy *verbatim et literatim*.

" London, August 30th, 1760.

" ADMIRALTY OFFICE.—By a letter dated the 2nd instant at Halifax from Captain Allen, commander of His Majesty's ship, the Repulse, it appears that upon intelligence received from the Governor of Louisburgh, of some French ships of war and store ships, with troops and stores on board, being in Chaleur Bay, in the Gulf of Saint Lawrence, Captain Byron, in His Majesty's ship the Fame, proceeded with several of His Majesty's ships in quest of them, and finding them in the said Bay, the Fame, Repulse, and Scarborough, after much difficulty got up, and on the 8th of July, destroyed the whole consisting of three frigates, viz: the Marchault, the Bienfaisant, the Marquis de Marloze and another; besides twenty-two schooners, sloops and small privateers, with a great quantity of provisions and stores. A more circumstantial account is daily expected from Captain Byron, who had sent Lieutenant Lord Rutherford, with his despatches by way of New York." "Of this account the subjoined is a literal transcript.

" London, 8th September, 1760.

" By despatches received from Captain Byron, senior officer of His Britannic Majesty's ships at Louisburgh, and dated 26th of July, it appears that Captain B. upon receiving intelligence from Brigadier General Whitmore, that a French fleet had sailed up Chaleur Bay, proceeded with the Fame, Dorsetshire, Achilles, Scarborough and Repulse in quest of them. Having destroyed one French ship, La Catharina, in Gaspé Bay, Captain Byron proceeded to a large river, called by the Indians Rustigushii. Here he found the remainder, consisting of the Marchault of 32 guns; the Esperance of 30; the Bienfaisant of 22; and the Marquis de Marloze of 18; together with twenty-two sloops and small vessels. When our fleet appeared off the Rustigushii harbour, the enemy proceeded up the river, and anchored above two batteries, mounted on the north side of it. These being but indifferently served were soon silenced, and the ships, after a short resistance, were all sunk or taken. Captain Byron then destroyed the town of Petite Rochelle, containing upwards of 200 houses, and also both of the batteries."

" The Magazine from which I obtained these extracts, I borrowed from Mr. Joseph Spratt, of Chatham, neither of us knowing at the time, that it contained such information.

" On the south side, 8 miles above the entrance, is point Ainimpk, a considerable elevation, which, as its name implies, was formerly a reconnoitering post with the Indians. In the vicinity of this point, are unequivocal indications of an extensive coal mine.

" Point Le Guard, on the north side, is nearly twelve miles from the entrance. It is a bluff high projection, nearly perpendicular, and was formerly occupied by the French, as a military station. This point commands a fine view of the entrance of the harbour; and is said to have been the site of a large fort, destroyed by the British squadron, under Captain Byron.

" Two miles higher up, on the same side, is Battery Point, so called from a garrison having occupied it during the old french war. This is a bold rocky promontory, probably 80 feet high, having on its summit, a tolerably extensive plain, and at its base, a fine deep channel, containing from 4½ to 5 fathoms.

" A few years ago, several large pieces of ordnance that had been sunk near the bottom of this point, were removed by some of the inhabitants, and by them, converted to various culinary purposes. Some guns are

still lying there, and near the beach, about 26 years ago, did Mr. Busted, the present proprietor, find a large copper stew-pan, of French construction, lying mouth downwards, and under it a bottle of molasses. The pan has been in constant use ever since, and to judge from its present healthy appearance, is likely to survive 26 years more. Among other articles, said to have been found at this point, a pair of duelling pistols, a handsome regulation sword, and a small case of wine, are enumerated. Here, at the edge of the channel and visible at low water, are the remains of the two French vessels, part of the fleet destroyed by Byron.

"A little above the battery point, is the mercantile establishment of Dean and Atkin, the first and the last house that I visited in Canada. I mention this circumstance to afford myself an opportunity of tendering my grateful acknowledgments to the kind and hospitable proprietors. This house, and that of Mr. Peter Sutherland, lately established a short distance from it, are the only resident merchants on the north side of the river. Four miles above this, is Point Pleasant, the residence of Edward J. Man, esquire. To the propriety of this name, I cordially render my assent; for during a residence of 11 days, I found it to be Point Pleasant, indeed. From every member of Mr. Man's amiable family, did I receive the most polite attention, and to him and his son, am I deeply indebted for much of the information contained in this book. At the edge of the channel, opposite to Mr. Man's, are the remains of another sunken vessel, from which some of the oaken timbers, some cutlasses, and other things, have been extracted.

"On the south side, nearly apposite to Point Pleasant, is another projection called Martin's Point, formerly a French village, and now ornamented by a handsome Presbyterian church, lately erected by the mutual exertions of the inhabitants of both sides of the river. Through this point flows a tolerably large stream, on which, the present proprietor, Robert Ferguson, esquire, has a very good saw mill and grist mill.

"A short distance above this, is the establishment of Messrs. Adams, about a mile in the rear of which is a large mountain, called from its conical form, the Sugar Loaf. It rises about 700 feet above the level of the plain, is composed of a spiral mass of granite, clothed with secondary formation, and is, at its base, from $2\frac{1}{2}$ to 3 miles in circumference. This mountain is inaccessible on all sides, except the east, where it can be ascended by a rude, but natural flight of steps, formed by several projections. A mile and a half in the rear of this mountain is a beautiful lake, abundantly stocked with large red trout, and surrounded by a level plain, well clothed with hardwood.

"Directly opposite, on the other side of the river, is Mission Point, an exceedingly rich tract of land, comprising upwards of 1200 acres, and owned by the Micmacs, to 200 hundred of whom it affords a permanent residence. This settlement consists of a chapel, capable of containing 300 persons, together with a Mission House, a burying ground, and 24 dwelling houses. The houses are constructed of logs, covered with shingles or boards; they are all provided with chimneys and stoves; and some of them have even chairs, bedsteads, tables and similar other conveniences. Most of the householders own live stock, consisting of oxen, cows, swine, &c., some of them have houses; one of them owns a small schooner of 25 tons; and others have small fishing boats.

"The Indians residing here, are generally moral in their deportment, and industrious in their habits. They demean themselves soberly and peaceably, contributing

much to their own respectability and comfort by annually raising a small stock of indian corn, beans, potatoes, &c. The R. C. Missionary residing at Carleton, is their spiritual director, he visits them twice a year, remaining a month each time; and for these services is paid by a legislative grant from Canada. The Mission House and the chapel were built exclusively by the Indians.

"Mission Point is a very eligible site for a small town, and would, if granted for that purpose, be soon occupied. The rear might be profitably disposed in garden lots, and the front in building ones. The highlands are more than a mile and a half back, and are abundantly stocked with black birch, and several varieties of firewood; and a good channel for a vessel of two hundred tons, winds close into the beach, while a continuous flat, or middle ground, provides an excellent Salmon Fishery. Of these advantages, and of the end to which they might be applied, Lord Dalhousie seemed to be aware, when he offered the Indians £600, and twice as much land elsewhere, if they would resign their title.

"Nearly opposite to this Point, and a little above it, are the remains of two vessels, both visible at low water. These are supposed to have been the Bien-faisant and the Marquis de Marloze, and from the one conjectured to have been the former, were a set of rudder irons lately recovered, which were used I believe, in the re-equipment of the Gordon Castle, a vessel belonging to Mr. Ferguson.

"Three miles above this, is Pointe-au-Bourdo, the site of that Petit Rochelle, which Byron destroyed in the summer of 1760. It was called by the Indians Kaatonkong, or Grindstone Point, to signify the quality of the red sand stone mountains with which its vicinity abounds. Its present name is derived from the sepulture of Monsieur Bourdo, the officer who commanded the Marchault, and who was killed in the action, and buried here.

"Here, along the shore, and at the foot of the mountains, cellar walls, foundations of houses, and other memorials of an old and extensive settlement, are visible. Here also, have gun barrels, old guns, gun locks, bayonets, &c., been occasionally discovered. Mr. Busted, the owner of Battery Point, is also the proprietor of this; and three or four years ago, did a servant of his, while ploughing some land, a short distance from where a service of china had been previously dug up, find a four pronged silver fork, and a silver table spoon, both marked with the letters G. M. D. At the west end of this Point, is also the hull of a vessel, from which hand-grenades, small bomb-shells, and some other projectiles have been occasionally taken.

"A little above the point is a small stream called Officers' Creek; it is a romantic little spot; and from some fashionable articles found about the ruins of a house in the neighbourhood, it may be inferred, that it was once the residence of a person of some distinction. Near this are also a set of launch ways, which must have been used by the French, in the construction of a tolerably large vessel. Several pieces of cannon have also been found here; and one of them, a 12 pounder, I think, Mr. Busted has lately inserted in the back of a new fire place. Mr. Man of Point Pleasant, has also an elegant parlour stove, made from a carronade of the same calibre. This conversion of instruments of death, into means of promoting human comfort, is analogous to O'Leary's description of the benificent fruits of religious toleration. "The stake," says that eloquent writer, "which formerly burned the heretic, now cooks a dinner for him."

" Opposite to Mission Point, is Athol House, the residence of Robert Ferguson, esquire, whose lady, I believe, can claim the distinction of being the first child born of English parents on the Restigouche. A little above M. Ferguson's is Bob's Point, formerly the site of an Indian village.

" From Robin Gray's brook, a small stream discharging round the west end of this Point, there is a portage of 22 miles leading towards the head of the Upsalquitch. It runs through remarkably fine land, revealing an extensive plain well covered with hardwood. This portage was opened by a few labourers in 1827, and although not in a very good state at present, it might by a moderate outlay, be made a permanent and useful line of communication. What recommends this road to a share of public attention is: it has a good firm bottom; requires no bridges; has a few settlers already on it; and has a tendency to connect the main river with one of its principal branches."

No. 17.

Description of the Restigouche river extracted from the Report of a Lecture delivered by — Perley, Esquire, of Saint John, N. B. on the 8th of December, 1843. From the "New Brunswick" a Newspaper of Saint John, N. B. December 11th 1843.

" Last Friday, Mr. Perley resumed his subject at Bathurst Harbour, and proceeded thence along the coast of the Bay of Chaleur, towards Dalhousie. The distance between Bathurst and Dalhousie was stated to be about sixty miles, and although there were only two or three considerable rivers intersecting the great road in that distance, yet there was an infinity of brooks and streams, and perhaps on no road in the Province of similar length, were there so many bridges.

" The coast between the two points mentioned, was described as quite low and very level; and this level land extended back from the shore for five or six miles, when a hilly and broken tract of wilderness country commenced. The streams took their rise amid these hills, and their sources were frequently very close to each other, although they took widely different courses. The little Nepisiguit was the first stream mentioned; it was said to rise near the Tattagouche, and to be but of small size. The Nigadoc came next, a pretty stream, 15 or 20 miles long, flowing over a clear bottom, and the settlement of Petit Rocher, lying near it, was described. The settlers at Petit Rocher were said to be Acadian French, who neglected their farms to follow fishing and lime burning, and were miserably poor. The limestone was of good quality and abundant; the people burned it in badly constructed kilns, with great waste of time and labour, and then carried it down the Bay, and even as far as Prince Edward Island, for sale. The Elm Tree and Belle Dune rivers, both small streams, were next in order. They are four miles apart, and between them is the flourishing settlement of Belle Dune. The houses are neat, and there is a pretty chapel, the settlers are Irish catholics, who came to this country exceedingly poor, but by their own industry and prudence have raised themselves to comfort and independence. Nine miles from Belle Dune is the Jaquet river, a large stream, forty-five miles long, rising in the hilly country, near the sources of the Nepisiguit and Upsalquitch. The borders of this furnish quantities of large white pine, which can be driven for 30 miles. Mr. Wightman carried the barometrical survey of the boundary Commissioners

from Grand Falls to the Bay of Chaleur, by the Jaquet river, and the hills on the upper part of the river were found by him to be from 800 to 1400 feet high. There is a good harbour at the mouth of this river, in 4 and 5 fathoms water, sheltered by Heron Island. This island was described as a long narrow slip of land, lying parallel with the main, at a short distance from it, and having good water and fine fishing all round it.

" A promising settlement at Nash's creek was mentioned, as also the river Benjamin and the river Charlo, all small streams, and the Eel river settlement was pointed out, and stated to have been first formed by settlers from the Isle of Arran, who had succeeded very well. The mouth of Eel river was shown on the map, and described as having a bar of sand across it a mile long, thrown up by easterly gales, and along this sea wall of sand and gravel the great road to Dalhousie passed. The bar formed within a wide basin of shallow water, with a soft muddy bottom, that peculiar sort of black mud, in which the Eels delight to bury themselves during winter. The basin of Eel river is considered the best Eel ground in the Province, and one of the best spots for wild fowl shooting in all New Brunswick, wild fowl of every description, but more particularly brant and geese, being abundant beyond all belief.

" The eels were stated to be the principal food of the Micmacs at all times, and the various modes of spearing them, both in summer and winter, were clearly described, and the several spears used by the Indians were shown.

" The lecturer here mentioned, that all the coast from Bathurst to Dalhousie abounded in fish of every description, and that small fish were so abundant at times, as to be spread on the land for manure—lobsters also were used for the same purpose, as at Carraquet, where every hill of potatoes had on it one or more lobster shells.

" The tide flows 4 miles up Eel river, above which there is a large tract of level land, of good quality, surrounded and sheltered by the lofty hills of the Restigouche. The Colebrook settlement is forming on this tract, and is said to offer peculiar advantages to settlers. *There is a high ridge of trap rock, separating Eel river from Dalhousie, called Charlefort's Hill, which is very abrupt on the Eel river side, and sloping toward the Restigouche; at the base of the slope is the town of Dalhousie.*

" *The entrance of the Restigouche is three miles wide, with nine fathoms of water, a noble entrance to a noble river. The Bay of Chaleur terminates here; it is 85 miles long, varying from 15 to 30 miles in width, and in the whole of its length and breadth, the lecturer said, there was neither rock, reef, or shoal.*

" The Restigouche was described as being 220 miles long; its Indian name implied "the river which divides like the hand," in allusion to its separation above the tide, into five principal streams or branches.

" Dalhousie, at its entrance, was described as a very neat town, containing about 130 houses, and 1000 inhabitants; the streets were said to be broad and clean. In front of the town there are some excellent wharves, with large and well sheltered timber ponds, a crescent shaped basin, and an Island, form an excellent harbour, where ships of any size can land in perfect safety. The present extensive trade of Restigouche was said to have sprung up about 1825, since which, Dalhousie and Campbelltown have been built; the whole trade of this river is carried on from the New Brunswick side,

and this was the only case, the lecturer said, in which the people of New Brunswick had not allowed their neighbours to secure all the advantages of position, which was owing however in a great measure to the utter neglect of the District of Gaspé by the Canadian government, which appeared altogether ignorant of its value.

"A very fine transparent map, of exceeding large size, was shown, exhibiting the river Restigouche from Dalhousie to Campbelltown, and all the principal places of interest on both sides of the river, with the ship channel clearly defined. This map was prepared by Mr. Slader, under the direction of the lecturer, from a survey made by Mr. Macdonald, of Gaspé, and had an excellent effect. Campbelltown was pointed out, and said to contain 50 or 60 houses and about 400 inhabitants. The Sugar Loaf Hill, a high conical eminence, standing isolated from the other hills, had been measured trigonometrically by Captain Baddely of the Royal Engineers, and found to be 1230 feet high. The summit is only accessible at one part, and even there it is considered rather perilous.

"The establishment of Robert Ferguson, esquire, called Athol House, was shown on the map, and Mr. Ferguson was stated to be one of the first English settlers on the Restigouche. He has a large and excellent farm, and for many years has carried on an extensive Salmon fishery in front of his residence.

"He has formerly packed and shipped 1200 tierces of salmon in a season, but the quantity has decreased of late, owing in a great measure to the fish being taken, up the streams, out of season. The salmon fishery is still extensive, however, opposite Athol House, on the Canadian side of the river is Mission Point, a Micmac settlement of about 400 souls. A transparency was shown exhibiting a view of this Point, with the old Chapel and the Priest's house, and Pointe-au-Bourdo, and some lofty hills in the distance, which gave a good idea of the boldness of the scenery.

"The scene of an action in 1760, between some English men-of-war and a French fleet of four sail and twenty transports, was shown, and a detailed and spirited account was given of the manner in which the English vessels, under Capt. Byron and Sir Andrew Hamilton, had forced their way up the river, silencing the guns at Pointe-à-la-Garde, and Battery Point, finally sinking the vessels of war and capturing the transports off Pointe-au-Bourdo. This point received its name from the circumstance of Capt. Bourdo, the commander of the French fleet, who fell during the action, being buried there. When the action was fought there was a town at this point containing 200 houses, built by the French and called Petite Rochelle,—this town was raised to the ground by Capt. Byron, and only a few remains of the foundations of houses were now to be seen. The French fleet destroyed here was intended to relieve Montreal, and endeavour to re-establish the French in Canada; but here was the closing scene and final end of French power in North America."

No. 19.

Extract from a Grant of Lands situated on the South side of the Restigouche River, made to Samuel Lee, Esquire, under the authority of the Province of New Brunswick, the 8th of January, 1802.

"Unto Samuel Lee, esquire, his heirs and assigns, a tract of land situate, lying and being the lots number fifteen and number sixteen, on the southerly side of

Restigouche river, which discharges into the Bay of Chaleur, and within the county of Northumberland, being butted and bounded as follows, to wit:—Beginning at a marked cedar tree, standing on or near the southerly bank or shore of the brook commonly called Walker's or Mill Brook, which discharges into Restigouche river aforesaid, about fifty chains of four poles each, south-easterly from the point commonly called Quinon's Point; the said tree being about twenty-four chains from the mouth or entrance of the said brook, and thirty-six rods below the saw mill which stands on the said brook; thence or from the said cedar tree running by the magnetic needle south one hundred and twelve chains of four poles each, or until it meets the prolongation of the rear or southerly line of the grant to George M'Gregor and two others; thence along the said prolongation west thirty chains, or until it meets the easterly line of the lot number fourteen, granted to Alexander Bean in the grant aforesaid; thence along the said easterly line north until it meets the *southerly bank or shore of Restigouche river aforesaid*; thence along the said southerly bank or shore, following its several courses down stream to the entrance of Walker's brook aforesaid; thence along the northerly bank or shore of the said brook, following its several courses up stream or south-westwardly, until it meets a line running north from the bounds first mentioned; thence along the said line south until it meets the said first bound, containing in the whole four hundred and seventy-seven acres, more or less, with the usual allowance of ten per cent. for roads and waste, being partly improved and partly wilderness land, and hath such shape, form and marks, as appear by the actual survey thereof, made under the directions of our Surveyor General of our said Province, of which survey the plan hereunto annexed is a representation.

"A true extract from the grant to Samuel Lee, esquire, dated 8th January, 1802.

"(Signed) Wm. F. Odell."

No. 19.

Extract from a Grant of Lands, situated on the South side of the Restigouche River, made to sundry persons under the authority of the Province of New Brunswick, the 3rd June, 1812.

"Unto Adam Gerard, junior, Adam Ferguson, junior, John Adams, Alexander Malcolm, John Duncan, Ralph Christopher, William Pratt, William Duncan, Thomas Busteed, senior, Samuel Grant, John Diamond, George Grant, Alexander Borland, Patrick Murphy, James Gerrard, James Ryan, David Connachan, Peter Adams, Thomas Busteed, junior, and Adam Gerard, in severally.

"The second division beginning at a marked spruce tree standing on or near the *south shore of Restigouche river* aforesaid, at the lower or north east corner or bounds of the tract formerly granted to Samuel Lee and four others, and about one hundred and thirteen chains measured on a direct line easterly from the northern extremity of Old Church Point above mentioned, thence or from the said spruce tree running south one hundred and fifty chains or along the lower or east line of the said grant, to the south-east corner thereof, thence east two hundred chains or to meet the upper or west line of the lot number eighteen, granted in a former grant to Joseph Diamond, thence along the said west line north until it meets the *south shore of the Restigouche river* aforesaid, at the entrance of

Walker's Brook, thence crossing the said Brook on a direct line to the point forming its entrance to the westward, and thence, following the several courses of the said south shore up stream or westerly, until it meets the spruce tree at the first mentioned bounds of this second division, or a line running north therefrom, which second division is divided into thirteen lots or plantations numbered from number five to number seventeen both inclusive, of which lots the lots numbered five, seven, eight, eleven and seventeen are only included in this grant, the remaining eight lots being granted in former grants.

"A true extract of the grant to Adam Gerard and others, dated 3rd June, 1812.

"(Signed,) Wm. F. ODELL."

VIDE, also the Provincial Statute of New Brunswick, 7th Geo. 4. Cap. 31. Section 5., contained in this Appendix No. 23, page 47. Also, the Provincial Statute of New Brunswick, 2nd Vict. Cap. 19. Sec. 1., describing the front of the parishes of Dalhousie and Adlington, same Appendix No. 27, Page 48.

No. 20.

BOUNDARIES OF COUNTIES IN THE PROVINCE OF NEW BRUNSWICK.

Extract from the Provincial Statute of New Brunswick 26th Geo. 3rd. Cap. 1, intituled, "An act for the better ascertaining and confirming the Boundaries of the several counties within this Province, and for subdividing them into Towns or Parishes."

"Whereas His Most Gracious Majesty, by His Royal Letters Patent under the Great Seal of this Province, bearing date the eighteenth day of May, one thousand seven hundred and eighty five, was pleased to erect and constitute into one distinct and separate county, all that tract or district of land situate in this Province, bounded southerly on the Bay of Fundy, easterly by Hopewell Township, and a line running from the north west corner of said township, due north into the country, northerly by a line running east north-east and west south-west, from the southernmost point of the Kennebeckacis Island, lying at the mouth of the river Kennebeckacis, where it joins the river Saint John, and westerly by a due north line from Point Le Proe, in the Bay of Fundy aforesaid. And did thereby ordain, establish and declare, that all and singular the lands and waters comprised within the limits aforesaid, should for ever thereafter be, continue and remain a distinct and separate county, and including the City of Saint John, should be called, known and distinguished by the name of the city and county of Saint John.

"And whereas by like letters patent since passed, His Majesty was further pleased to erect and constitute into one distinct and separate county all that tract or

district of land situate in this Province, bounded easterly by the Province of Nova Scotia, and the gulf of St. Lawrence, northerly by a due west line running into the country from the northernmost point of the large island, in the mouth or entrance of Chediac Bay or harbour, westerly by a line beginning at a point in the north boundary line of Saint John's county, due north from Quaco Head in the Bay of Fundy, and running north into the country until it meets said west line, and southerly by the county of Saint John aforesaid, and the Bay of Chignecto, and did thereby ordain, establish and declare, that all and singular the lands and waters comprised within the limits aforesaid, should for ever thereafter be, continue and remain a distinct and separate county to be called, known and distinguished by the name of the County of Westmorland.

"And whereas by like letters patent since passed, His Majesty was pleased to erect and constitute into one distinct and separate county, another tract or district of land, situate in the western part of this Province, bounded on the south by the Bay of Fundy, on the west by the river Sarniac or Sainte Croix, and the western shore of the Bay of Passamaquoddy, including the island of Grand Manan, on the east by a due north line from point Le Proe in said Bay of Fundy, running into the country, and on the north by a due west line commencing in the said north line thirty miles distant from point Le Proe aforesaid. And did thereby ordain, establish and declare that all and singular the lands and waters comprised within the limits aforesaid, should for ever thereafter be, continue and remain a distinct and separate county, to be called, known and distinguished by the name of the County of Charlotte.

"And whereas by like letters patent since passed, another tract or district of land lying within this Province, bounded southerly by the county of Westmorland, easterly by the gulf of Saint Lawrence and the Bay des Chaleurs, northerly by the said Bay and the southern boundary of the Province of Quebec, and westerly by a continuation of the western boundary line of the said county of Westmorland, and also erected into one distinct and separate county, to be called and known by the name of the County of Northumberland.

"And whereas by like letters patent in like manner since passed, another tract or district of land, lying within this Province, on both sides the river Saint John, bounded on the south by the county of Saint John, on the west by Charlotte county, on the east by the counties of Westmorland and Northumberland, and on the north by a line running south-west and north-east, from the south point of Spoon Island, lying in Saint John's river, was also erected into one distinct and separate county, to be called and known by the name of King's County.

"And whereas by like letters patent in like manner since passed, another tract or district of land, lying within this Province, on both sides the river Saint John, bounded on the south-east by King's county, on the south-west by Charlotte county, on the north-east by the county of Northumberland, and on the north-west by the south boundary line of Burton township, and by a continuation of the said line to the north-east and south-west, until it meets the counties of Northumberland and Charlotte respectively, was also erected into one distinct and separate county, to be called and known by the name of Queen's County.

"And whereas by like letters patent, in like manner since passed, another tract or district of land lying within this Province, on both sides the river Saint John, bounded on the south west by Charlotte county, on the north east by the county of Northumberland, on the north west by the Province of Quebec, and on the south

east by the north boundary line of the township of Maudgerville, and by the said line continued to the north-east till it meets the western bounds of Northumberland county, and south-west to the eastern bounds of the county of Charlotte, was also erected into one distinct and separate county, to be called and known by the name of the county of York.

"And whereas by like letters patent, in like manner since passed, the county of Sunbury was limited and bounded on the north-west by the county of York, on the north-east by the county of Northumberland, on the south-east by Queen's county, and on the south-west by the county of Charlotte."

No. 21.

Extract from the Provincial Statutes of New Brunswick, 27th Geo. III. cap. 7. intitled, "An Act in addition to an Act, for the better ascertaining and confirming the boundaries of the several counties within this Province, and for subdividing them into Towns or Parishes."

1.—"Be it enacted by the Lieutenant-Governor, Council and Assembly, that all that tract of land in the county of Westmorland, beginning fifteen chains east of a creek about two miles south of Memramcook river, thence northerly on the western line of the town of Sackville to Chediac harbour, including the island, thence west on the north line of said county, as far as the east line of the town of Monkton, thence down said line and the other river Petcucliac, to the first mentioned bounds, be one district, town or parish, distinguished by the name of the town and parish of Dorchester. That all that tract of land to the west of the town of Hillsborough and Monkton, extending the width of the same county, as far as the Portage, between Petcucliac and Salmon brook, be one town and parish, distinguished and known by the town and parish of Salisbury.

2.—"And be it further enacted, that a line due south from the north end of the said Portage to the northern boundary of the county of Saint John, and from the said north end of the said Portage due north to the southern boundary of the county of Northumberland, be the dividing line between the county of Westmorland and the counties of King's and Queen's, any Law or Ordinance to the contrary notwithstanding."

No. 22.

Extract from the Provincial Statute of New Brunswick, 43 Geo. III. cap. 4. intitled, "An Act in addition to an Act, intitled, 'An Act for the better ascertaining and confirming the boundaries of the several counties within this Province, and for subdividing them into Towns and Parishes.'"

1.—"Be it enacted by the Lieutenant-Governor, Council and Assembly, that a direct line from the north-west corner of the county of Westmorland, until it meets the south-west branch of Miramichi river, where the Portage leading from the river Nashwaack now joins the same, thence by a line running north twenty-two degrees thirty minutes west by the true meridian from the junction of the said Portage, with the said south-west branch of the Miramichi as aforesaid, to the southern boundary of the Province of Lower Canada,

shall be deemed the boundary line of the county of Northumberland, and the dividing line between that and the adjoining counties.

No. 23.

Extract from the Provincial Statute of New Brunswick, 7 George IV. cap. 31, intitled, "An Act for the division of the county of Northumberland into three counties, and to provide for the Government and representation of the two new counties."

"Whereas from the great extent of the present county of Northumberland, it is necessary and expedient that the same be divided into three counties.

1.—"Be it therefore enacted by the Lieutenant-Governor, Council and Assembly, that all that part of the said county which now forms the parishes of Carleton and Wellington, and also that part which lies in the rear thereof and not included in the parishes of Ludlow, Nelson or Chatham, be and the same is hereby erected into a county separate and distinct from the said county of Northumberland, to be called and known by the name of the county of Kent, and that all that other part of the said county of Northumberland which now forms the parishes of Saumarez and Beresford, be, and the same is hereby erected into another county separate and distinct from the said county of Northumberland, to be called and known by the name of the county of Gloucester, and that the residue of the said county of Northumberland continue to form the same county.

5.—"And be it further enacted, that the town now forming, on the southern side of the entrance of the river Restigouche, within the said county of Gloucester, shall be called and known by the name of Dalhousie."

No. 24.

Extract from the Provincial Statute of New Brunswick, 1st Will. IV. cap. 50, intitled "An Act for the Division of the county of York into two counties, and to provide for the government and representation of the new county."

"Whereas from the great extent of the present county of York, it is necessary and expedient that the same be divided into two counties—

1.—"Be it therefore enacted by the President, Council and Assembly, that all that part of the said county which lies to the northward and westward of a line commencing at the monument situate at the source of the Cheputneticook, and running by the true meridian a due east course till it strikes Eel river, thence following the several courses of the said Eel river to its junction with the river Saint John, thence crossing the said river Saint John, north forty five degrees east, till it strikes the division line between the county of Northumberland and the said county of York, be and the same is hereby erected into a county, separate and distinct from the said county of York, and shall be called and known by the name of the county of Carleton; and that the residue thereof which lies below the boundary line of the said county of Carleton, as is described in this Act, shall comprise the county of York."

No. 25.

Extract from the Provincial Statutes of New Brunswick, 7th Will. IV. cap. 35, intituled, "An Act to establish a boundary line between the counties of Westmorland and Saint John, and King's and Queen's counties."

"Whereas by an Act made and passed in the twenty seventh year of the reign of His Majesty King George the Third, intituled, "An Act in addition to an Act for the better ascertaining and confirming the boundaries of the several counties within this Province and for the subdividing them into towns and parishes," it is enacted, that a line due south from the north end of the Portage between Poticodiac and Salmon brook to the northern boundary of the county of Saint John, and from the said north end of the said Portage due north to the southern boundary of the county of Northumberland, be the dividing line between the counties of Westmorland and King's and Queen's counties, any law or ordinance to the contrary notwithstanding. And whereas doubts exist as to the north end of the said Portage, and it is expedient to define the division line more clearly between the counties of Westmorland and Saint John and King's and Queen's counties, for remedy whereof—

1.—"Be it enacted by the Lieutenant-Governor, Legislative Council and Assembly, that a line commencing at a birch tree on the north shore of the Bay of Fundy, thirty claims to the eastward of Goose river so called, thence following the line run from the said birch tree by Deputy Surveyor Stiles in the autumn of the year one thousand eight hundred and thirty six, a course north by the magnet of that year, and a prolongation of such line northwardly until it intersects the southern boundary line of the county of Kent or Northumberland, as the case may be, be the dividing line between the counties of Westmorland and Saint John and King's and Queen's counties, any law or ordinance to the contrary notwithstanding.

2.—"And be it enacted, that all lands which may lie to the eastward of the said line, and which before the passing of this Act formed a part of the said county of Saint John shall be included in and form a part of the parish of Hopewell, in the county of Westmorland, to all intents and purposes whatsoever."

No. 26.

Extract from the Provincial Statute of New Brunswick, 7th Will. 4. cap. 57, intituled, "An Act to erect part of the county of Gloucester into a separate and distinct county."

"Whereas from the great extent of the present county of Gloucester, it is necessary and expedient that the same be divided into two counties—

1.—"Be it therefore enacted by the Lieutenant-Governor, Legislative Council and Assembly, that all that part of the said county of Gloucester, which lies to the northward and westward, and is included within the line drawn due south, from the mouth of Belldune river until it strikes the line dividing the parishes of Beresford and Bathurst in the said county, thence westerly by the line dividing the counties of Northumberland and Gloucester until it strikes the line dividing the county of Carleton from the present county of Gloucester, thence by said line a northerly course until it strikes the line of the Province of Lower Canada,

do, be, and the same is hereby erected into a county, separate and distinct from the said county of Gloucester, to be called and known by the name of the county of Restigouche; and that part of the present county of Gloucester, not included within the limits of the said new county above described, shall henceforth comprise the county of Gloucester."

No. 27

Extract from the Provincial Statute of New Brunswick, 2d Viet. cap. 19, intituled, "An Act to divide the County of Restigouche into five Towns or Parishes, and to define the boundaries thereof."

"Whereas it is expedient to divide the County of Restigouche into five Towns or Parishes—

1.—"Be it enacted by the Lieutenant-Governor, Legislative Council and Assembly, that the county of Restigouche shall be and the same is hereby divided into five towns or parishes, which towns or parishes shall be and hereby are named and bounded in the manner hereinafter mentioned and described, any law, to the contrary notwithstanding:—The first town or parish to be called, known, and distinguished by the name of Durham, and to be abutted and bounded as follows: commencing at the point or place where the line which separates the county of Gloucester from the county of Restigouche, strikes the Bay de Chaleur, thence following the course of the said bay northwesterly, until it comes to the mouth of Benjamin River at mid-channel, thence on a course due south until it strikes the northern boundary of the county of Gloucester, thence by the boundary of the county of Gloucester to the place of beginning. The second town or parish to be called, known and distinguished by the name of Colborne, and to be abutted and bounded as follows: commencing at the mouth of Benjamin River, at the western boundary of the parish of Durham aforesaid, thence following the several courses of the Bay de Chaleur up to the middle of the mouth of Eel river, including Heron Island, and the several islands in front and situate on the south side of the Bay de Chaleur, thence due south to the rear line of the county of Restigouche, thence easterly by the said rear line until it strikes the western line of the parish of Durham aforesaid, and thence due north to the place of beginning. The third town or parish to be called, known and distinguished by the name of Dalhousie, commencing at the western boundary of the said parish of Colborne at the mouth of Eel river aforesaid, thence following the several courses of the Bay de Chaleur up to the town of Dalhousie, thence by the several courses of the Restigouche river, up stream to the middle of the mouth of Walker's Brook or Ferguson's Mill Stream, so called, thence by a line drawn due south (through the middle of the mouth of the said stream at the bridge on the great road) until it strikes the rear line of the county of Restigouche, thence easterly by said rear line until it strikes the western line of the parish of Colborne aforesaid, and thence due north to the mouth of Eel river at the place of beginning. The fourth town or parish to be called, known and distinguished by the name of Addington, commencing at the middle of Walker's Brook, or Ferguson's Mill Stream, on the western boundary of the parish of Dalhousie, thence following the several courses of the Restigouche river, up stream, to the middle of the mouth of the Upsalquitche river, thence by a line drawn due south until it strikes the rear line of the county of Restigouche, thence easterly by said rear line until it strikes the western line of the parish of Dal-

house aforesaid, and thence due north to the middle of Walker's Brook, or Ferguson's Mill Stream aforesaid, at the place of beginning. The fifth town or parish to be called, known and distinguished by the name of Eldon, and to be abutted and bounded as follows, commencing at the westerly line of the said parish of Addington, in the middle of the mouth of the Upsalquitché river aforesaid, thence following the several courses of the Restigouche river, up stream, until it strikes the eastern boundary of the county of Carleton, thence southerly by the said easterly line of the county of Carleton to the rear line of the county of Restigouche, thence following the said rear line easterly until it intersects the western line of the parish of Addington aforesaid, and thence due north to the middle of the mouth of the Upsalquitché river, at the place of beginning."

No. 28.

Original description of the boundaries of the Counties of Northumberland and York, extracted from the Letters Patent setting off those Counties, under the Great Seal of the Province of New Brunswick.

COUNTY OF NORTHUMBERLAND.

ERECTED 10TH JUNE, 1785.

"Bounded southerly by the county of Westmoreland, easterly by the gulf of Saint Lawrence and Bay des Chaleurs, northerly by the said bay and the southern boundary of the Province of Quebec, and westerly by a continuation of the western boundary line of the said county of Westmoreland."

COUNTY OF YORK.

ERECTED 25TH JULY, 1785.

"Bounded on the south-west by Charlotte county; on the north-east by the county of Northumberland; on the north-west by the Province of Quebec; and on the south-east by the north boundary line of the township of Magerville, and by the said line continued to the north-east till it meets the western bounds of Northumberland county, and south-west to the eastern bounds of the county of Charlotte."

I certify the foregoing to be true copies of the record in the Secretary's office of the letters patent setting off the counties of Northumberland and York.

The boundaries of these counties thus erected were confirmed by Act of Assembly 26th Geo. 3. cap. 1.—Passed anno 1786.

(Signed,) WM. F. ODELL,

*Provincial Secretary,
New Brunswick.*

No. 29.

PIEF MADAWASKA.

Statement concerning the Pief Madawaska, extracted from the first statement on the part of Great Britain, in the reference made under the 5th Article of the Treaty of Ghent.

"In the British separate transcript of the map annexed to the convention under the denomination of the map A (map B in this Report) there will be perceived, marked in green, (red on the map B attached to this Report) a tract of country situated on the Madawaska river and the Lake Temisquata, at a short distance from the river Saint John. That district, laid down according to the most accurate measurement founded on the documentary authority hereinafter specified and annexed, represents a portion of territory denominated the "*Pief of Madawaska*," which was originally granted in the year 1683, (that is, eight years prior to the charter of Massachusetts's Bay) to a French subject, by the Governor of Canada, which was then a French Province.

"That Province remained subject to France, from that period down to the year 1763, at which time the whole of the French possessions in that part of North America were definitively ceded by a Treaty to Great Britain. During that entire period, however, and down to the present day, the Pief of Madawaska, in spite of all transfers, whether of the Province generally from nation to nation, or of itself individually from hand to hand, has preserved its individuality under the *original grant*, and has constantly been, and is at this moment, subject to the jurisdiction of Canada.

"In proof of the accuracy of this assertion, we refer to the annexed papers, numbered from 13 to 25 inclusive. (from 1 to 13 in Appendix No. 50 to this Report.)

The first of these papers, marked 13 (1) contains the original grant of that territory in 1683. The others display the successive deeds of transfer and acts of jurisdiction exercised over it in Canada, from that period to the year, 1802; since which time the Pief has remained in possession of the same occupant.*

"Here, therefore, exists an extensive possession incontestably *Canadian*, held by virtue of the rights derived to Great Britain, from the cession to her of Canada by France, far within the Line of Boundary claimed by the United States, as having formed part of the Province of Massachusetts Bay.

"Now, on what possible ground can the United States, who, in preferring their claim in 1789 to territory in this quarter, professed to adhere to the charter of Massachusetts Bay, now lay claim to territory which was granted to a French subject by a French Governor of Canada, before the existence of the charter of Massachusetts Bay, and which has always formed an integral portion of Canada, whether held by France or Great Britain.

"But not only does this interposition of territory, unquestionably *Canadian*, invalidate the claim of the United States, as founded on the charter of Massachusetts's Bay, but it also, when considered under another point of view, totally breaks down their argument respecting the line of highlands claimed by them, for it disables those highlands from fulfilling the distinctive condition required of them by the Treaty of 1783, na-

* It has since been sold to an American Company.—A. W.

mely, that they shall divide the rivers falling into the Saint Lawrence from those which fall into the Atlantic Ocean. Amongst these latter we have seen that the United States include the river Saint John.

"On consulting again the British transcript of the map A (B) it will be seen that the fief of Madawaska extends from near the sources of the river Madawaska to within a few miles of the river Saint John, of which it is the principal tributary in that quarter.

"We conceive that it will hardly be pretended, that the seigniory of Madawaska could have been considered, at the period of the original grant, as an insulated portion of Canada, totally disunitied from that Province. We therefore assume that the Province of Canada extended, at the period of the original grant of the fief of Madawaska, uninterruptedly, from beyond the line of boundary now claimed by the United States, along the Madawaska river, to the entire extent of that seigniory. But assuming this to be the case, it is manifest that the American line must, at the point towards the source of Madawaska, experience an absolute chasm,—a complete interception, by the interposition of that portion of Canada.

"But how would such a line fulfil the conditions of the treaty? It would certainly in that case, neither run along highlands, nor would it divide rivers falling into the Saint Lawrence from rivers falling into the Atlantic; since the upper part of the Madawaska would undoubtedly be on the same side of the line with all the rivers which fall into the Saint Lawrence.

"But without entering into arguments which might be derived from other sources, to shew what the general boundary line of Canada was, we may fairly assert, that the simple fact of the fief of Madawaska having been originally granted and invariably held under the jurisdiction of Canada, whether French or English, goes far to warrant the conclusion that the whole tract of country in which that fief lies, was always considered and treated by the authorities of Canada as an integral portion of that Province.

"Upon such assumption or assertion alone, however, whatever may be its justice or strength, we do not propose to rest our argument. That the country has been so considered and treated is demonstrable from documentary evidence of an equally conclusive character with that already adduced on behalf of the fief of Madawaska. To that evidence we accordingly appeal.

"On the 24th of January, 1765, a public notice, heretofore annexed, was issued by the office of the Provincial Secretary in Canada, and published by authority, according to custom, in the Quebec Gazette, by which notice all Canadian inhabitants were prohibited from interfering with the hunting ground of the Indians down to the Great Falls of the river Saint John.

"Again, on the 11th of November, 1784, that is, but one year subsequent to the treaty of 1783, an Indian was condemned by the courts of Canada, and executed for a murder committed at Madawaska. The documents containing an account of this proceeding are hereto annexed.

"Again, in the year 1789, proceedings were commenced in a court at Quebec and continued to the 20th of January, 1791, in an action for damages brought against Augustin Dubé and Pierre Duperé, residing at Madawaska, in which the defendants put in a plea against the jurisdiction of the court of Quebec, alleging that they resided within that part of New

Brunswick. The plea was rejected on various grounds, amongst others, absence of proof on the part of the defendants that Madawaska was not within the jurisdiction of Canada; and the defendants were cast accordingly.

"Again, on the 10th of November, 1791, a sheriff's notice was published in the Quebec Gazette for the sale of lands of the said Pierre Duperé, at Madawaska, apparently in execution of the judgment in the last mentioned case.

"Again, in 1785, the council of Quebec took into consideration the expediency of making a road from Kamouraska on the Saint Lawrence, to lake Temisquata, along that district called the Temisquata Portage, in order, as it is stated, to obtain an easy and speedy communication between the Provinces of Canada and New Brunswick, particularly in time of war, when an easy and speedy communication, independent of the States of America, becomes absolutely necessary, and when, in times of peace, from the inconvenience of sending government and other despatches by way of New York, which is every day more apparent, the American Postmaster having lately refused the Postmaster General here (at Quebec), to allow the Couriers from this Province to pass through their territories, insisting that all letters shall go by their mails only."

"Again, in 1787—1792, the question of the respective boundaries of Canada and the then newly erected Province of New Brunswick was brought before the Council of Quebec. The paper which contains an account of the proceedings thereupon is highly valuable and important, especially as proving that whatever disputes may have existed between the respective British Provinces as to their several limits, not the smallest doubt seems to have been ever entertained by them as to the right of Great Britain to the whole territory thus contested between the Provinces.

"In this document it is shown, that for several years prior to 1792 the government of Canada had established a militia at Madawaska, and that the Courts of Quebec had exercised jurisdiction in various cases within that settlement. It will also be seen therein, that, in opposition to the claim set up at that time by New Brunswick to a boundary north of lake Temisquata, the committee of the Council of Quebec contended that such boundary would interfere with *"the seigneuries under Canadian grants as far back as the years 1623 and 1683, besides the Acadians settled above the Great Falls of Saint John's river."* The report of the committee proceeds thus:—"The committee most humbly submit to your Lordship, whether it would not be for the advantage of both governments, that the Province of Quebec be separated from that of New Brunswick by a line running *along the highlands which extend from the head of Choleurs Bay, to the foot of the Great Fall of Saint John's river*, and from thence crossing the river (so as to include the whole of the portage or carrying place) and continuing in a straight line towards the sources of the river Chaudière, which *rise on the highlands that commence at the head of the Bay of Choleurs, and extend all the way to the north westernmost head of Connecticut river.*" This opinion clearly shows that conception was at that time entertained by the Canadian

* Subsequently to the treaty of 1783, the British Province of Nova Scotia was divided into two separate Provinces, of which the one retained its former name, and the other, embracing the British territory in the vicinity of the new north line, and the adjacent parts of the old Province of Nova Scotia, received the name of New Brunswick.

authorities, respecting the boundaries of Canada and Nova Scotia. In a subsequent part of the same document, it is distinctly stated that at that time (in 1792,) "the line between the two Provinces of Canada and New Brunswick, had not been ascertained," and it was then the declared object of the Canadian government, "to call the attention of His Majesty's Ministers to the adjustment of the limits necessary for preserving the public tranquillity of both Provinces."

"Again, in 1791, an official list was made out of the parishes in the Province of Quebec, in which list the parish of Madawaska is included, and a description given of the species of tenure by which the settlers held their land, and a census of the male population, above 19 years of age, is also thereto annexed.

"The above cited series of documents clearly establishes Canadian jurisdiction, as far as the Great Falls of the Saint John, for a long period, both before and since the treaty of 1783, and thereby further negatives the American claim to this country, as founded on the supposed limits of Massachusetts's Bay.

"Furthermore there can be shewn, from American testimony, a *de facto* possession by Great Britain of the district called the Madawaska settlement, on the river Saint John, beginning a few miles above the Great Falls, and extending beyond the confluence of the river Madawaska with the Saint John, which possession was never called in question by the United States until the termination of the war between Great Britain and the United States, in 1814."

No. 30.

List of 13 documents concerning the fief Madawaska, contained in the British written and printed evidence adduced under the 5th article of the treaty of Ghent.

1st.—Concession of the *fief of Madawaska* to the children of the Sieur de la Chenaye, 25th November, 1683, and concession to the said Sieur de la Chenaye, and to the Sieur de Villeray, of land lying between their former concessions, 5th April, 1689.

2nd.—Adjudication of the fiefs of Rivière du Loup and Madawaska to Joseph Blondeau dit la Franchise, 29th October, 1709.

3rd.—Act of "*Foi et Hommage*," by Joseph Blondeau for the fiefs of Rivière du Loup and Madawaska, 13th February, 1723.

4th.—Aveu et Dénombrement by Joseph Blondeau, 15th February, 1723.

5th.—Adjudication of the fiefs of Rivière du Loup and Madawaska, to Pierre Claverie, 29th July, 1755.

6th.—Act of "*Foi et Hommage*," by Pierre Claverie, for the fiefs of Rivière du Loup and Madawaska, 19th March, 1756.

7th.—Receipt for Domanial Dues for the fiefs of Rivière du Loup and Madawaska, 8th May, 1756.

8th.—Deed of Sale by J. A. N. Dandamme Danseville, and his wife (the widow of Pierre Claverie) to James Murray, 20th July, 1763.

9th.—Deed of Assignment dated 2nd August 1768, by Richard Murray to Malcolm Fraser, of an Indenture of lease, dated 10th May, 1766, made by James Murray to the said Richard Murray and Malcolm Fraser, and an Indenture of lease of the said General James Murray to Henry Caldwell, dated 7th April, 1774.

10th.—Lease from Henry Caldwell, to Malcolm Fraser, 24th September, 1782.

11th.—Confirmation before a Notary, 27th December, 1786, of Lease from Henry Caldwell, to Malcolm Fraser, 24th September, 1782.

12.—Deed of Sale, from the trustees and executors of James Murray, to Henry Caldwell, 21st June, 1802.

13.—Deed of Sale, by Henry Caldwell to Alexander Fraser, 2nd August, 1802.

No. 31.

SOUTHERN BOUNDARY OF CANADA.

Extract from the Minutes of the Executive Council of the Province of Quebec, 9th July, 1787.

"Monday, 9th July, 1787.

"PRESENT.

"His Excellency the Right Honorable Guy, Lord Dorchester, Governor; the Honorable Henry Hope, esquire, Lieutenant Governor; William Smith C. J. Le Comte Dupré, Hugh Finlay, Edward Harrison, George Pownall, J. G. C. De Lory, Henry Caldwell, William Grant, P. R. De St. Curs, Francis Baby, esquires.

"His Lordship intimated the propriety of ascertaining the limits between this and the Province of New Brunswick, and that the Surveyor General of that Province, would soon meet Mr. Holland for that purpose, and as it was absolutely requisite towards opening and sustaining the land communication between the two Provinces, that the lands on both sides of it should be settled, his Lordship proposed, and the council concurred in authorizing Mr. Holland to give assurances to all persons desirous to settle there, and especially the Acadians in that vicinity, of the favorable intentions of this government to issue grants in their favor, for three hundred acres, to the head of every family, out of the waste lands of the Crown in that quarter; and it is for that purpose recommended to them to explore the places fit for cultivation on both sides of the route, and apply, by petition, in the usual course, for grants to be made agreeable to the Royal instructions."

No. 32.

Extract from the Minutes of the Executive Council of the Province of Quebec, 4th August, 1792.

"Saturday, 4th August, 1792.

"At the Council Chamber in the Bishop's Palace.

"PRESENT.

"His Excellency Major General Clarke, Lieutenant-Governor.

"And the Honorable William Smith, Esquires.

"Hugh Finlay, "
"François Baby, "

"Read the memorial of A^d and M. Robichaud, dated the 8th June, 1792.

"Read a Report of the Committee of Council, appointed to consider the boundary between the Provinces of Quebec and New Brunswick, and the means of encouraging the communication and settlement of the lands in that vicinity, dated 18th October, 1787.

"Read a judgment of the Court of Common Pleas, dated 15th February, 1792.

"Read the Report of the Solicitor General and Surveyor General, dated Quebec, 29th July, 1792.

"Ordered that these papers be entered upon the Minutes, and it is humbly suggested by the Board, that it may be expedient to transmit copies to the Lieutenant-Governor of the Province of New Brunswick for his co-operating in representations to call the attention of His Majesty's Ministers to the adjustment of the limits necessary for preserving the public tranquillity on the borders of both Provinces."

THE MEMORIAL OF

A. & M. ROBICHAUD.

"A son Excellence Allured Clarke, Ecuyer, Lieutenant-Gouverneur et Commandant en Chef de la Province du Bas Canada, Major Général, Commandant les Forces de sa Majesté dans l'Amérique du Nord, &c. &c. &c.

"Requête d'Anselme et Michel Robichaud, Marchands, demeurants à la Rivière des Caps, Comté de Cornwallis, Province du Bas Canada, représentant très humblement.

"S'il plait à Votre Excellence,

"Que depuis plus de quinze ans ils ont constamment commercé avec les habitants de Madawaska, et par diverses licences du District de Quebec, traité avec les Sauvages sur les frontières, même dans une partie de la Colonie du Nouveau Brunswick, et qu'ils ont acquis une terre au dit lieu de Madawaska, et fait des crédits considérables.

"Que le gouvernement de Québec ayant depuis plusieurs années établi des milices à Madawaska, et la Cour des Plaidoyers Communs du District de Québec, prononcée plusieurs jugemens, même dé-

cerné des exécutions en leur faveur contre diverses personnes domiciliées au dit lieu de Madawaska, ils espéroient avoir justice et satisfaction, mais qu'au commencement de May dernier, Thomas Costin, se disant Ecuyer, Juge à Paix pour le Nouveau Brunswick, a fait élire à la pluralité des voix, dans une assemblée des habitants, de nouveaux officiers de Milice à Madawaska, et prononcé une amende contre Anselme Robichaud, l'un des suppliants, pour avoir fait saisir des meubles de François Albert à Madawaska, quoiqu'en vertu d'un exécution sur jugement du District de Québec.

"Qu'en outre Jacques Cir, Lieutenant de Milice établi par le gouvernement de Québec, quoique muni de l'ordre d'exécution de justice, a été arrêté prisonnier par un sergent des troupes de Sa Majesté et quatre soldats, qui l'ont conduit environ quinze lieues au Grand Sault, où il a été obligé de payer dix livres treize shillings pour recourir sa liberté.

"Et comme les suppliants, n'ont pu apprendre de l'Etat Major des Milices de Québec, ni de John Collins, Ecuyer, Député Arpenteur Général, ni du dit Thomas Costin soit disant Juge à Paix, où peuvent avoir été posés les bornes de la Province sur la ligne, telle qu'indiquée par le statut de la 14e année du règne de Sa Majesté, et comment le changement de gouvernement peut ainsi s'opérer, et afin d'obtenir justice dans l'une ou l'autre Province, ils supplient très humblement votre Excellence, de leur faire connoître, s'il est possible, les bornes de la Province du Bas Canada, et de prendre, avec le gouvernement du Nouveau Brunswick, les mesures que sa sagesse peut adopter, pour éviter la ruine des suppliants et des autres fidèles sujets de Sa Majesté, que l'ignorance des limites et de preillies amendes ou forces peuvent occasioner.

"Et les suppliants par inclination, comme par devoir, ne cessent de prier, &c.

"Quebec, 8 Juin, 1792.

"INDORSED.

"Referred to the Solicitor General and Surveyor General for a verification of facts in due form and report.

"By order of His Excellency the Lieutenant-Governor.

"(Signed,) THOMAS ASTON COFFIN.

"Quebec, 18th June, 1792.

P A P E R S

REFERRED TO THE

COMMITTEE OF COUNCIL.

Boundaries of the Provinces of Quebec, Nova Scotia, and New Brunswick, extracted from His Excellency Lord Dorchester's Commissions, as Captain General and Governor in Chief of the said Provinces.

"QUEBEC.

"Comprehending all His Majesty's territories, islands, and countries in North America, bounded on the south by a line from the Bay of Chateaus, along the

highlands which divide the rivers that empty themselves into the river Saint Lawrence, from those which fall into the Atlantic ocean, to the north-westernmost head of the Connecticut river; thence down along the middle of that river, to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraguy; thence along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie, through the middle of said lake until it arrives at the water communication between that lake and lake Huron; thence along the middle of said water communication into the lake Huron; thence through the middle of said lake to the water communication between that lake and lake Superior, thence through lake Superior northward of the Isles Royal and Philippeaux to the long lake; thence through the middle of said long lake and the water communication between it and the lake of the Woods, to the said lake of the Woods; thence through the said lake to the most north-western point thereof; and from thence on a due west course to the river Mississippi, and northward to the southern boundary of the territory granted to the merchants, adventures of England trading to Hudson's Bay, and also all such territories, islands and countries, which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the government of Newfoundland, together with all the rights, members and appurtenances, whatsoever, thereunto belonging."

"NOVA SCOTIA.

"Bounded on the Westward by a line drawn from Cape Sable across the entrance to the centre of the Bay of Fundy, to the northward by a line along the centre of the said Bay to the mouth of the Musquat river, by the said river to its source, and from thence by a due east line across the Isthmus into the Bay Verte, to the eastward by the said bay and the gulf of Saint Lawrence to the cape or promontory called Cape Breton, in the island of that name, including the said islands, the island of Saint John, and all other islands within six leagues of the coast; and to the southward by the Atlantic ocean from the said cape to the Cape Sable aforesaid, including the island of that name, and all other islands within forty leagues of the coast, with all the rights, members and appurtenances whatsoever thereunto belonging."

"NEW BRUNSWICK.

"Bounded on the westward by the mouth of the river Sainte Croix, by the said river to its source, and by a line drawn due north from thence, to the southern boundary of the Province of Quebec; to the northward by the said boundary as far as the western extremity of the Bay des Chaleurs; to the eastward by the said bay and the gulf Saint Lawrence, to the bay called Bay Verte; to the south by a line in the centre of the Bay of Fundy, from the river Sainte Croix aforesaid, to the mouth of the Musquat river, by the said river to its source; and from thence by a due east line across the Isthmus into the Bay Verte, to join the eastern line above described, including all islands within six leagues of the coast, with all the rights, members, and appurtenances, whatsoever thereunto belonging."

Boundaries of the United States of America in the words of the second article of the Definitive Treaty of Peace and Friendship between His Britannic Majesty and the United States of America. Signed at Paris, the 3rd September, 1783.

"2nd.—And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz: from the north west angle of Nova Scotia, viz: that angle which is formed by a line drawn due north from the source of Sainte Croix River to the highlands, along the said highlands which divide those rivers that empty themselves into the river Saint Lawrence from those which fall into the Atlantic ocean, to the north westernmost head of the Connecticut river; thence down along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude until it strikes the river Iroquois or Cataraguy; thence along the middle of said river into lake Ontario; through the middle of said lake until it strikes the communication by water between that lake and the lake Erie; thence along the middle of said communication into lake Erie; through the middle of said lake until it arrives at the water communication between that lake and lake Huron; thence along the middle of said water communication into the lake Huron; thence through the middle of said lake to the water communication between that lake and lake Superior; thence through lake Superior northward of the Isles Royal and Philippeaux to the long Lake; thence through the middle of said long Lake and the water communication between it and the lake of the Woods, to the said lake of the Woods; thence through the said lake to the most northwestern point thereof, and from thence on a due west course to the river Mississippi; thence by a line to be drawn along the middle of the said river Mississippi, until it shall intersect the northernmost part of the thirty first degree of north latitude; south by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty one degrees north of the Equator, to the middle of the river Apalachicola, or Catabogue; thence along the middle thereof to its junction with the Flint river; thence straight to the head of Sainte Mary's river, and thence down along the middle of Sainte Mary's river to the Atlantic ocean: east by a line to be drawn along the middle of the river Sainte Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands, which divide the rivers that fall into the Atlantic ocean, from those which fall into the river Saint Lawrence, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic ocean, excepting such islands as are now, or heretofore have been, within the limits of the said Province of Nova Scotia."

Copy of His Excellency Lord Dorchester's Instructions to Mr. John Holland.

"(Copy.)

"Quebec, 9th July, 1787.

"SIR,—You will be pleased to accompany Mr. Finlay to the Great Falls on the river Saint John, in order to assist in marking out the boundary between

the Provinces of Quebec and New Brunswick, where it crosses the road of communication between these two Provinces, in such a manner that the lands at the different carrying places, and throughout the whole of the said communication, on both sides, may be granted by the respective governments without delay.

"You will there meet the Surveyor General of the Province of New Brunswick, or some other person or persons authorized by the Lieutenant-Governor of the said Province, in concert with whom and Mr. Finlay you will proceed upon that business.

"You will be guided therein by the inclosed descriptions of the boundaries of the Provinces of Quebec, Nova Scotia and New Brunswick, extracted from my commissions as Governor thereof, to which is likewise added the description of the boundary of the United States, taken from the definitive treaty, for your information.

"The boundary established, you will neglect no opportunity of assuring all persons desirous to settle *on this side of it, and particularly the Acadians in that vicinity*, of the good dispositions of government in their favour as expressed in the inclosed minute of council,* which you will communicate to them leaving copies thereof with some of the people for their satisfaction.

"Such spots as Mr. Finlay may point out to you at the different carrying places, as most necessary to be settled for the establishment of post houses on the road of communication, you will more especially make the objects of your attention, explaining to the people the advantages of such situations.

"In general, your own prudence will direct to the different objects necessary to be attended to upon the whole of these services, in the course of which you will have the advantage of consulting Mr. Finlay's judgment and experience.

"You will return to this place as soon as they are accomplished, and report to me your proceedings, with such observations as may have occurred to you, tending to the advantage of the King's service, and more particularly to the *facilitating the communication between these two Provinces*.

"I am,

"With regard,

"(Signed) DORCHESTER.

"True copy.

"(Signed) HENRY MOTZ."

Letter by way of Report from Mr. John Holland.

"Quebec, 26th July, 1797.

"MY LORD,—I have the honor to report, that pursuant to Your Excellency's orders and instructions, dated the 9th of July, I on the day following left Quebec and proceeded in company with Mr. Finlay to the *Great Falls on the river Saint John*; that on the 16th of July, at the Acadian settlement opposite Madawaska, met Capt. Sproule, the Surveyor General of New

Brunswick; he informed me, that conceiving his waiting for us at the Great Falls to be totally unnecessary, he was now proceeding on his way to the height of land on the carrying place, situate between the river Saint Lawrence and Lake Temiscouata; as there (according to his idea) the boundary ought to be fixed. In reply to his remarks, I observed, that *it was generally understood in Canada that the line between the Provinces of Quebec and New Brunswick should run from the head of Chaleur Bay along the highlands in a westerly direction to the Great Falls on the Saint John river*, and from thence west to the westernmost, or main branch of the river Sainte Croix. He answered, that should a boundary be fixed at or near the Great Falls he would protest against such doings, as contrary to the directions laid down in his instructions.

"On Tuesday morning, the 17th, Capt. Sproule having met Mr. Finlay and me, and, after talking over the subject of the boundary line, he repeated nearly what he had said before, adding, that he would proceed immediately to the Portage to examine which way the waters incline on the heights there; that by their course he might be enabled to ascertain the boundary between the Provinces of Quebec and New Brunswick, as all the streams running into the rivers which empty themselves into the river Saint John, are in the Province of New Brunswick, and those which fall into the Saint Lawrence are in the Province of Quebec.

"After using many arguments to shew him the impropriety and disadvantages that would attend the fixing a boundary on the portage; the vast tract of country which must for many years, remain unsettled, by its falling in their Province, their nearest settlement being at least, two hundred miles distant from the heights on the portage; *the repugnancy expressed by the Acadians (settled near the Madawaska falls) at the idea of being separated from this Province* to which they are attached by numberless ties and reasons; but more especially, that the fixing that point would materially affect the boundary between us and the United States of America; and that a large territory would thereby be saved or lost to His Majesty's dominions; and that *the heights of land run from the Bay of Chaleur to the river Saint John, and strike it at, or near, the Great Falls. To ascertain which, and more positively determine the situation, and explore the face of the country, we requested Capt. Sproule to return with us to the Great Falls*, to which he objected, saying, that his return there could answer no end, as the opinion he had already formed of the situation of the boundary line from geographical knowledge, and ocular demonstration, was unalterable, and that he was bound to observe General Carleton's instructions, which he produced, conceived in these words:

"By His Excellency Thomas Carleton, Lieutenant-Governor, and Commander in Chief of the Province of New Brunswick, &c. &c. &c.

"To George Sproule, esquire, Surveyor General.

"You are hereby directed to proceed to the Great Falls of the river Saint John, in order to meet the Surveyor General of the Province of Quebec, at that place on the 15th instant, for the purpose of settling the boundary line between the Province of Quebec and New Brunswick, in the execution whereof you will be governed by the Act of Parliament for establishing the Province of Quebec, which determines that boundary to be the highlands which divide those waters that empty themselves into the river Saint Lawrence, from those which fall into the Atlantic ocean.

* Vide ante, p. 51 (also No. 31 in this appendix.)

" Given under my hand at Fredericton, the seventh day of July, in the year of our Lord, one thousand seven hundred and eighty-seven.

" (Signed) THOMAS CARLETON."

" On the 18th Captain Sproule and we separated ; he, on his way to the Portage, we, to the Great Falls, where we found the country extremely mountainous; and, from information gathered from different persons, who have been from the Saint John river back in the country, and my own observations, have no doubt but that these mountains are the range which extend from the Bay of Chaleur to that river.

" On consulting Mr. Finlay, and finding nothing further could be done towards ascertaining the boundary line, therefore, with his advice, returned to fulfil as far as possible the further requisitions as stated in the instructions Your Lordship was pleased to honor me with.

" I neglected no opportunity of encouraging and assuring those persons wishing to settle in that vicinity, of the favourable intentions of this government towards them, leaving several copies of the minutes of council among them, with which the Acadians in particular, expressed an uncommon satisfaction.

" I informed the people disposed to settle, of the spots Mr. Finlay pointed out as most convenient and necessary to be settled for the establishment of post houses on the road ; taking the utmost care and attention to explain to them the advantages of such situations : they in general were inclined to settle from the Falls up the Saint John river, as far as Madawaska, the land being thus far good ; but from thence to the river Saint Lawrence, I found them much averse to settle, owing to the barrenness of the land in general, and their inability to support themselves for the first years of their settlement : upon the whole I much fear that, without some further encouragement than the grant of land, the portage between the river Saint Lawrence and Temiscouata will remain unsettled.

" I have the honour to be,

" With the utmost submission,

" My Lord,

" Your Lordship's most respectful and

" most obedient humble servant,

" (Signed) JOHN FREDERICK HOLLAND."

Report of the Committee of Council appointed to consider the Boundary between the Provinces of Quebec and New Brunswick, and the means of encouraging the communication, and to settle the lands in that vicinity.

" To His Excellency the Right Honorable Guy Lord Dufferin, Captain General and Governor in Chief of the Province of Quebec, Nova Scotia and New Brunswick, &c. &c. &c.

" The Committee of Council appointed to report as well upon the question of the boundary between this Province and that of New Brunswick, as the most eligible means of encouraging the communication and the settlement of the lands in that vicinity, have the honour to observe, that Mr. Holland's Report to Your Excellency has been duly considered by the committee,

who likewise paid thorough attention to the description of the boundaries of the Provinces of Quebec and New Brunswick, as extracted from Your Excellency's commissions as Captain General and Governor in Chief, and on the whole they beg leave to remark, that if the Province of New Brunswick may of right claim the sources of rivers that take their rise on the height of land, which divides the rivers that empty themselves into the Saint Lawrence from those which fall into the Atlantic ocean, the ancient limits of this government will be curtailed towards New Brunswick, and seigniories under Canadian grants as far back as the year 1623 and 1683 be taken into that Province ; besides, the Acadians, already settled above the Great Falls of Saint John river, and such people as may chuse hereafter to settle there, would be greatly incommoded if those parts should be included in the Province of New Brunswick.

" Their commercial dealings will be with this country, for they must, from their situation, be supplied with European and West India commodities from Quebec.

" The Committee most humbly submit to your Lordship, whether it would not be for the advantage of both governments that the Province of Quebec be separated from that of New Brunswick by a line running along the highlands which extend from the head of Chaleurs Bay to the foot of the Great Falls of Saint John river, and from thence crossing the river (so as to include the whole of the portage or carrying place) and continuing in a straight line towards the sources of the river Chaudiere, u. rise on the highlands that commence at the said head of the Bay of Chaleurs, and extend all the way to the north westernmost head of Connecticut river.

" With regard to settling the new road to Lake Temiscouata, along that lake and so down the Madawaska, the committee beg leave to represent that the soil in that lengthy tract is poor in general ; yet there are many parts through its whole extent fit for cultivation, though not of a quality to induce people to settle so far removed from assistance in their country labour, without good encouragement.

" From information the committee report, that some Canadian settlers may be had on the following terms :

" To obtain a grant of two hundred acres of land, free from quit rent, for twenty years, paying a sol de cens.

" To have four acres cleared, and a log house built thereon, consisting of two apartments, and to have an out house of logs to serve as a stable and barn, with three years provisions for each family.

" The committee have further been informed that loyalists will set down on that tract on the following conditions :

" That each family have a grant of land (200 acres) free from quit rent, for ten years.

" Twenty five pounds to be advanced, to stock the farm ; the lands and improvements to be security that the money shall be repaid in ten years, but without interest. That each family be conveyed to the land allotted to them without expense. To have two years provisions allowed them, and delivered at their settlements.

" The lands from the mouth of Madawaska down to the Great Fall on Saint John river are of a superior

quality ; it is therefore presumed that settlers would sit down in that part on less encouragement than is above demanded.

" By order of the Committee.

" (Signed,) HUGH FINLAY,
" Chairman.

" Council Chamber,
" 18th October, 1787."

THE JUDGMENT OF THE
COURT OF COMMON PLEAS.

" DISTRICT DE } P. L. PANET,
QUEBEC. } Greffier.

" *George Trois*, par la Grâce de Dieu, *Roi*, de la Grande Bretagne, de France, et d'Irlande, Défendeur de la Foy, &c. Vu que Anselme et Michel Robichaud, de la Rivière de Caps, a obtenu jugement le seizième jour de Décembre dernier, dans la Cour des Plaidoyers Communs, pour le District susdit, devant les Juges sus-nommés, a la Chambre d'Audience de la dite Cour, dans la ville de Québec, contre François Albert, *habitant de Madawaska dans le District*, pour la somme de dix livres sterling, pour sa dette, ainsi que celle de treize chelins deux sols courant, pour ses frais, et qu'il reste à faire exécution du dit jugement. Il vous est ordonné de prelever la dite somme et les frais susdits des biens mobiliers et effets du dit François Albert *dans le susdit District*, excepté toujours les animaux de charue, outils et instruments d'agriculture, outils pour l'exercice du métier, et un lit garni ; mais au cas que les autres biens mobiliers et effets du dit François Albert ne suffisent pas, les dits animaux de charue, instruments et outils d'agriculture, et outils de métiers, seront vendus (mais non le lit garni) huit jours après avoir fait afficher ou crier la vente, au Dimanche, à la porte de l'Eglise paroissiale, immédiatement après le service divin, et ayez l'argent (ou deniers) provenus de la vente) Vendredi le vingt-septième jour d'Avril prochain, afin de la livrer au dit Anselme Robichaud et Michel Robichaud pour sa dette et ses frais, avec un chelin pour ce précept, et quatre chelins pour vos droits honoraires ; et au cas qu'il vous reste quelques deniers entre les mains après que vous aurez pleinement satisfait le susdit jugement et les frais, vous rendrai le surplus au dit François Albert.

" Témoin l'Honorable Jenken Williams, l'un des Juges de notre Cour à Québec, le 15e jour de Février, dans le 23me année de notre règne.

" (Signé,) J. WILLIAMS,
" J. P. C.

" A Antoine Cureux Saint Germain, capitaine, et autres officiers de milice de la paroisse de Kamouraska, et François Cires, capitaine, et Jacques Cir, Lieutenant de milice de la paroisse de Madawaska."

" A l'Honorable Colonel de toute la milice de la côté du sud, Monsr. François Dambourges.

" MONSR. ET COLONEL,

" Supplie très-humblement votre bonté et votre grandeur, me trouvant dans une très-grande affaire pour avoir fait valoir les ordres, qui m'ont été adressés de

la Cour du gouvernement de Québec. Après avoir fait un saisi, et huit jours après voulant faire faire la dite vente, comme il m'avait été ordonné par la Cour, ils ont commencé par me traiter de voleur, et se sont renfermés ; le dit Thomas Costin, se disant Juge à paix, a dit qu'il se moquoit de tous les ordres de Canada. D'ailleurs, il ne s'est pas contenté de me faire toutes les insultes, il a été cherché une garde au Grand Sault, et sont venus me chercher comme un voleur.

" Ce Costin donc juge à paix, disant à la garde, s'il ne veut pas sortir de chez lui, tirez-le ou sortez-le par quartier et même tuez-le. Après avoir été rendu au Grand Sault, moi ayant laissé ma famille dans une triste situation, ils m'ont obligé comme voulant me contraindre d'aller à Brunswick, j'ai été obligé donner caution pour la somme de dix louis et treize chelins ; donc je suis obligé de donner au 15 Mai prochain, c'est pourquoi, mon Colonel, que j'ai recour à votre bonté de vouloir me rendre ce service, moi ayant suivi les ordres, qui m'ont été adressés, *comme ayant été honoré de commission de capitaine et lieutenant de milice.*

Nous nous trouvant à l'heure present ruinés par le juge à paix, tant que par les frais dont je vous fait mention, et ainsi que dans tous les discours me traitant de voleur et coquin, et me disant, sur votre respect qu'il se moque généralement de tous les ordres de Canada, et même, mon colonel, je ne peut pas vous dire tout ce qu'ils ont dit, et même ce qu'il dit en présence de dix témoins. Deplus pour vous prouver tous les cruautés dont je vous fait mention, il a fait dire à ma femme, comme n'étant point chez moi, que si elle ne me trouvoit pas, qu'il aurez la prendre avec les plus petits de ses enfans, et la mener au Grand Sault ; pour lors, elle lui dit : mon mari est à la chasse ; tout aussitôt il a commandé un homme avec le Sheriff, sont venu me chercher dans le bois distante de six lieux de chez moi, et m'ont fait perdre toute ma chasse, pour lors ils m'ont amené au Grand Sault ; étant au Grand Sault, il m'ont donc obligé de promettre de donner cette somme comme je vous fait mention, autre raisons qu'il donnas quand il laissa François Alber, et l'autre lui dit, s'il vient des ordres de Canada, que faudra-t-il que je fasse ; il lui dit tuez les, et il n'en reviendra point d'autre pour cette affaire, vous n'en aurez point tué deux ou trois qu'il ne reviendront point, à l'instant cy inclus vous trouverez sa défense, qu'il nous a fait.

" A l'heure present, mon colonel, nous nous jetons entre vos bras pour avoir votre secours, et vous dire que nous ne somme point coupable dans aucune chose, et nous avons suivis les ordres qu'il nous ont été adressés, et sans votre secours, et celui du gouvernement, nous serons obligé de payer cette somme de dix louis et treize chelins, et de passer pour des voleurs, moi qui a suivi les ordres conformément à leur teneur, et nous qui sommes des gens hors d'état de payer une somme telle que celle la pour avoir obéi aux ordres.

" Nous espérons que votre bonté ordinaire ne voudras pas nous laisser dans une si grande peine et perte.

" Vous pouvez voir que cet article nous a fait perdre bon compte.

" Nous espérons que votre bonté nous honorera de votre réponse, et de votre support, et plus promptement possible pour opposer ce Thomas Costin de tout vendre, ce que nous pouvons avoir, comme il fera si nous n'avons point du secours de vous et votre protection ; il sera bien douloureux pour nous si nous étions obligé de payer un tel somme pour avoir obéi les ordres. Mon cher colonel, nous avons ce confiance en

vous, et nous sommes avec toutes les considérations possibles, comme étant avec respect,

" Monsieur,

" Votre très-humbles et très-obéissant
Serveurs,

Marque $\times$ ordinaire
de François Sir.

FRANÇOIS SIR,

Marque $\times$ ordinaire
de Jacques Sir.
Lieutenant de Milice.

JACQUES SIR,
Capitaine et Lieutenant
Milice.

" Moi, Régis Robichaud, assurant M. le Colonel de ses respects, et le Sr. François et Jacques Sir, m'ont prié de signer pour eux.

" Par ce présent, je certifie que François Sir, et Jacques Sir, habitants de Madawaska, et que le dit Madawaska est situé dans le comté de York, et Province de Nouvelle Brunswick, et par lequel je défend les dits François Sir, et Jacques Sir d'agir ou de faire agir, exécuter ou faire exécuter aucun ordre d'un autre Province, dans le District de Madawaska, excepté que soit signé et ordonné de notre Juge de Nouvelle Brunswick, sous peine d'être poursuivis suivant les loix de notre dite Province de Nouvelle Brunswick.

" Donné sous notre seing, à Madawaska, York comté, Mai le 26, 1792.

" (Signed) THOS. COSTIN,

" Juge a Paix pour le District de
Madawaska et York comté."

" Moi, François Albert, je confesse d'avoir reçu de Jacques Sir, son billet pour la somme de dix louis treize chelins, lequel son payer sous seide de tous comptes pour divers fraix causé pour avoir agi contre les loix de notre Province de Nouvelle Brunswick.

mark
" FR. $\times$ ALBERT.

" Grand Sault, York comté,
" Mars le 26, 1792."

" Madawaska, le 23e Avril, 1792.

" A Monsieur Dambourges, Colonel de toute la Milice au sud : —

" MON COLONEL, — Dans la première lettre que je me suis fait l'honneur de vous écrire il est à vous dire que nous ne pouvant pas nous transporter chez vous pour vous expliquer plus amplement.

" Il est de vous dire que nous sommes dans une très grande peine et grande trouble, et aussi par le trouble que nous à causé la rivière St. Jean par l'inondement des eaux qu'il y'a dans cet endroit, même qu'il a été difficile de nous sauver ainsi que nos animaux.

" Mais, mon Colonel, nous vous envoyons un exprès pour prier votre bonté de vouloir nous donner du support pour nous secourir. Nous espérons en votre

bonté pour nous tirer de peine avec une réponse, car sans aucune force nous sommes des gens ruinés et toujours dans le risque.

" Nous sommes avec tout le respect possible, votre très humble et affectionné serviteur,

FRANÇOIS SIR,
Capt. des Milices à Madawaska.

JACQUES SIR,
Lieut. de Milices.

Report of the Solicitor General and Surveyor General, to His Excellency Alfred Clarke, Esquire, Lieutenant-Governor and Commander in Chief of the Province of Lower Canada, Major General, Commanding His Majesty's Forces in North America, &c. &c. &c.

" Report of His Majesty's Solicitor General and Surveyor General, under Your Excellency's reference of the 18th June, upon the petition of Anselme and Michel Robichaud, of Rivière des Caps, in the county of Cornwallis, merchants, for a verification of the facts therein stated.

" May it please Your Excellency,

" The petition states, " that for upwards of fifteen years they have traded with the inhabitants of Madawaska, and under divers licences from the District of Quebec, have also traded with the Savages upon the frontiers, and even within parts of the Province of New Brunswick, and have purchased a farm at Madawaska, and made considerable credits.

" That the government of Quebec, having for several years established a Militia at Madawaska, and the Court of Common Pleas for the District of Quebec having pronounced several judgments, and issued executions in their favour against persons settled at Madawaska, they had entertained hopes that justice would be done them; but that in the beginning of May last, one Thomas Costin, calling himself a justice of the peace for the Province of New Brunswick, had caused new Officers of the Militia to be elected at Madawaska, by a majority of voices, at an assembly of the inhabitants, and imposed a fine on Anselme Robichaud, one of the petitioners, for having caused the goods of one François Albert, at Madawaska, to be seized, though such seizure was made by virtue of an execution issued upon a judgment in the district of Quebec. Moreover, that Jacques Sir, Lieutenant of Militia, established by the government of Quebec, though vested with the execution, was arrested and made prisoner by a sergeant and four soldiers in His Majesty's troops, who conducted him fifteen leagues, to a place called the Grand Sault, where he was compelled to pay ten pounds and thirteen shillings to obtain his liberty.

The petition further states, " that as the petitioners have not been able to learn from the Field Officers of Militia at Quebec, nor from John Collins, Esquire, the Deputy Surveyor General, nor from the said Thomas Costin, who calls himself a justice of the peace, where the boundaries of the Province may have been placed upon the line, designated by the Statute of the 14th of His Majesty, and how the change of government may operate, and to the end that they may obtain justice in one or other of the Provinces, they most humbly pray Your Excellency to

cause them to be informed, if it be possible, of the boundaries of the Province of Lower Canada, and to take such measures with the government of New Brunswick as your wisdom may suggest, to prevent the ruin of the petitioners, and others, His Majesty's faithful subjects, which their ignorance of the limits, and such fines and force may occasion."

To verify the facts above alleged it was our intention to examine the petitioners and such witnesses as they might be able to adduce before us, and for that purpose the Solicitor-General acquainted Colonel Baby thereof, but from the distance of their residence from Quebec, from their poverty and from other causes, they have not yet presented themselves. There are, however, certain papers that accompanied Your Excellency's reference, and are hereunto annexed, which in order to avoid any longer delay, induce us to report to Your Excellency, that the facts alleged in the petition respecting the arrest of Jacques Cir, the Lieutenant of Militia at Madawaska, and his being conducted to the Grand Sault, and there compelled to give his promissory note to Francis Albert for ten pounds and thirteen shillings for pretended expenses, said to have been occasioned by his having acted contrary to the laws of the Province of New Brunswick, appear to us to be true, judging from the original papers, viz :

- 1.—"A copy of a writ of execution issued from the Court of Common Pleas at Quebec, tested 15th February, 1792.
- 2.—"A letter from François Cir and Jacques Cir, to Colonel Dambourges, certified by Régis Robichaud, without date.
- 3.—"A paper signed Thomas Costin, juge à paix pour le district de Madawaska et York Comté, purporting to be an inhibition to François Cir and Jacques Cir, from executing any order issuing from any other Province, within the district of Madawaska, unless it be signed and ordered by a Judge of New Brunswick, dated 26th March, 1792.
- 4.—"An acknowledgement, to which is subscribed François Albert, of his having received a promissory note of Jacques Cir, for ten pounds thirteen shillings, for expenses occasioned by his having acted contrary to the laws of New Brunswick, dated 28th March, 1792.
- 5.—"A letter dated Madawaska, 23rd April, 1792, from François Cir and Jacques Cir, to Mr. Dambourges, Colonel of the South Militia, Lieutenant Colonel Baby of the Canadian Militia, assures us that a company of Militia was established by order of Lord Dorchester, at Madawaska, about two years ago, and that Jacques Cir, is a Lieutenant in that company, so that that fact is also true.

"We have applied to the Council Office here for a copy of any proceedings that might have been had in council respecting the line of division between this Province and New Brunswick, and have obtained a copy of certain papers there deposited, which show that the line between the two Provinces has not yet been ascertained:—a copy of those papers we herewith submit to Your Excellency, viz :

- 1.—"Description of the Boundaries of the Provinces of Quebec, Nova Scotia, and New-Brunswick, from His Excellency Lord Dorchester's Commissions, and of the United States of America, from the Definitive Treaty of the Peace, in the handwriting of Mr. Secretary Motz.

2.—"Copy of Lord Dorchester's Instructions to Mr. John Holland, who was directed to accompany Mr. Finlay, in order to assist in marking out the Boundary Line, dated Quebec, 9th July, 1787, also in the handwriting of Mr. Secretary Motz.

3.—"Letter by way of Report from Mr. John Holland to Lord Dorchester, dated Quebec, 26th July, 1787.

4.—"Report of a Committee of the Council charged to consider the subject of the Boundary Line between the two Provinces, and the means of encouraging the communication, and settling the lands in that vicinity. Dated, Council Chamber, 18th October, 1787.

"All which is most humbly submitted to Your Excellency's consideration.

"(Signed,) J. WILLIAMS,
Sol. Gen.

"SAMUEL HOLLAND.

"Quebec, 29th July, 1787."

No. 33.

Extracts from the Report of the Royal Commissioners, Colonel Richard Z. Mudge and G. W. Featherstonhaugh, Esquire on the subject of the Southern Boundary of Canada, 1840.

(Page 9).—"Having found the physical geography of the disputed territory very much at variance with all the accounts of it to which we had had access, and perceiving that the popular opinions regarding it both in Great Britain and in the United States of America, owed their origin to the previous surveys and negotiations respecting the Boundary Question, some of which surveys we found singularly at variance with our own careful observations made on the spot, as to heights of some leading points of the country of vital importance to the question; we came to the conclusion, that the most significant of those previous estimates, and which were connected with important inferences, were conjecturally made, without knowledge of the truth, and that thus very incorrect statements had been submitted to the judgment of the Sovereign Arbitrer, to whom, under the convention of the 29th September, 1827, those previous surveys were to be referred. We shall, in the course of this Report, point out to your Lordship these inaccuracies in a more specific manner.

"Alive to the important bearing of this somewhat unexpected state of things, it became necessary for us immediately upon our arrival in England, to enter upon a more careful study of the diplomatic history of the dispute; in which was to be found those arguments which had been raised upon the erroneous statements we have alluded to, and which had taken so strong a hold upon the public mind in the United States of America.

"The assumption consequent hereupon, which is entertained in that country, that a particular range of highlands north of the Saint John's river, and running parallel with, and at no great distance from the Saint Lawrence, is the range of highlands intended by the treaty of 1783, seemed to have suggested to the official agents, employed by the American government under

the 5th article of the treaty of Ghent, the necessity of maintaining that the boundary proposed by the treaty of 1783, was identical with the ancient provincial boundary between the Province of Quebec and Her Majesty's Province of Nova Scotia. This assertion, which appeared to derive plausibility from Mitchell's map, a document admitted to have been much consulted by the Commissioners of both governments at the negotiations which ended in the treaty of 1783, induced the British official agents, under the treaty of Ghent, to take the opposite line, and to insist that the assertion was altogether "conjectural and incapable of satisfactory proof." The voluminous conflicting documents which this point gave rise to, show how much the British official agents were misled by the general ignorance which existed of the interior parts of the territory in dispute. They were right in denying that the ancient provincial boundary was identical with the range of highlands claimed on the part of the United States; but they were wrong in denying that the line of demarcation established by the ancient provincial boundary, was intimately connected with the boundary intended by the 2nd article of the treaty of 1783.

"When the American agents asserted that the treaty line and the ancient provincial boundary were identical, and when the British agents denied that they were so, both parties placed the question at issue upon grounds dangerous to their respective claims, for if it had been known that a range of high lands corresponding with the terms of the treaty, existed in a part of the territory which neither of the parties had examined, namely, south of the Chaudière and the Bay of Chaleurs, in which ran the line of demarcation of the ancient provincial boundary, the Americans would never have made their assertion; but on the contrary, would probably have changed arguments with our own commissioner and agents. The United States are, however, committed, by the case which they laid before His Majesty the King of the Netherlands, to their assertion of the identity of the ancient provincial boundary with the line described in the 2nd article of the treaty of 1783. But it is probable that a better knowledge of the interior of the disputed territory, than existed at the time of the submission of the case to His Majesty the King of the Netherlands, now obtains in the United States. Of this we had indications on our arrival in America, in August, 1839, when some of the American Newspapers called loudly upon us to proceed to examine the line of highlands claimed by them; and this, no doubt, with the view of drawing our attention from those parts of the country west of the Saint John which lie along the eastern and western sources of the Penobscot. And the same newspapers at the termination of our labours, exhibited in no very courteous terms, their dissatisfaction with the course we had pursued, misrepresenting all our proceedings, denying that we had visited the line claimed by them, and insisting that if we had done so, we should have been compelled to report in favour of it. We relate these circumstances to your Lordship, to show that the very sanguine and almost universal opinion which obtains in the United States, and which has been so generally expressed there, in favour of the boundary line being to be found so near to the Saint Lawrence, has been partly occasioned by the true line of boundary never having been practically examined, and of no report having been made in detail of its true nature; whilst the past surveys and negotiations, as well as the public attention in both countries, have been almost exclusively directed to the line brought forward by the Americans as the boundary intended by the treaty of 1783. For although Mars Hill was with great colour of justice proposed by the British official agents as a point in

that range of highlands,* at which the due north line should stop, in order to form the north-west angle of Nova Scotia, still no line "along the highlands," had been surveyed or practically examined in a western direction from thence. The argument thus came conjecturally before the King of the Netherlands, and was left still more impotent by the denial, on our side, of any connection between the ancient provincial boundary and the line described in the 2nd article of the treaty of 1783.

"We have to remark, also, as a proof of the mistaken notions entertained in the United States, respecting their supposed highlands, that if we, in accordance with their wishes, had confined our investigations to the line claimed by them, we should have come at once to the conclusion at which, on making it the last branch of our investigations, we have actually arrived, namely, that that line is deficient in every essential character requisite to make it conformable with the description of the boundary intended by the treaty of 1783. Believing that they never would have invited us to expose the defects of the line claimed by them, if they had been aware of those defects, we must infer that they themselves, with some few exceptions, are without any practical knowledge of the real character of the line of boundary which they insist upon, some striking proofs of which we propose hereafter to adduce.

(P. 25.)—"The proclamation of 1763 states also, that the line of boundary of the government of Quebec, is to pass "along the north coast of the Bay of Chaleurs;" it does not state, as has been erroneously asserted, that the line passes along the highlands, which are on the north coast of the Bay of Chaleurs; but merely that it, the line, is to pass along the north coast, so as to place the whole of that part of the country, down to the water's edge of the bay, within the jurisdiction of Quebec. And it is a fact, which will hereafter be shown, that the highlands do extend from the eastern sources of the Penobscot, to the Bay of Chaleurs, forming a perfect continuity of highlands from that bay to the heads of the Chaudière.

"The propriety of including all the settlements accustomed to be governed by French law, and professing, as the Canadians of those settlements did, the Roman Catholic religion, was manifestly one of the motives for extending the jurisdiction of Quebec, wherever the settlements were French. This is evident, both from the language of the proclamation of 1763, where the boundary line is directed to go "also along "the north coast of the Bay of Chaleurs," because various fishing settlements were there; and from the recital of the same boundary in the Act 14 Geo. 3. 1774, commonly called the Quebec Act, where the southern boundary is thus described.

"All the territories, islands and countries in North America, belonging to the Crown of Great Britain, "bounded on the south by a line from the Bay of Chaleurs along the highlands which divide the rivers that empty themselves into the Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut."

"No particular point of the Bay of Chaleurs is here mentioned at which this line is to begin, and there is nothing in this act which forbids the jurisdiction of

* On ascending the river Saint John from Woodstock, the gradual rise of the country is evident; and several miles before the traveller arrives at the stream called Des Chutes, he perceives that he is about to pass through a range of highlands.

Quebec to go as far south as the southernmost point of the Bay of Chaleurs at Bathurst, in north latitude 47 degrees 38 minutes.

"But in the commission of Montague Wilmot, dated 21st of November, 1763, the government of the Province of Nova Scotia is directed to "be bounded by "the southern boundary of our Provinces of Quebec "as far as the western extremity of the Bay des "Chaleurs." And this is repeated in other commissions to governors at various periods. But as no part of the territory in dispute with the United States can lie east of the due north line from the source of the Saint Croix, the acts of the British government touching the partitionment of lands between the Provinces of New Brunswick and Lower Canada, are not appropriate matters for discussion in the dispute with the United States. The real subject for discussion is purely the true direction of the highlands which "divide those rivers that empty themselves into the Saint Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of the Connecticut river;" and is limited to that part of them which lies west of the due north line, and to the point at which the due north line from the sources of the Saint Croix river comes to those highlands.

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(P. 39 and 40)—"There are various lines of what have once been continuous ridges, more or less elevated, traversing in a north-easterly direction this disputed territory, some of which have been so abraded and broken down that they are nearly obliterated, leaving only peaks at great distances from each other, but in the same magnetic direction. We shall only speak of three principal ones, the first in order being the ridge of which the Bald Mountains, rising in north latitude 45 degrees 45 minutes form a conspicuous part, and which trends north-easterly by an irregular and much broken range comprehending the Kataaden Mountain with the adjacent peaks, Mars Hill, and other peaks in the same direction.

"The other two ridges being, one of them the line of highlands overlooking the Saint Lawrence, and claimed by the Americans to be the highlands of the treaty of 1783, and the other, the only line of highlands which manifestly fulfils the intentions of the treaty, and the character of which we shall now examine more in detail.

"These two ridges, as will be apparent from an examination of the map, are the main branches of a common stem, which runs between the river Hudson of the State of New York and the Connecticut river, and which divides into two branches on reaching the forty-fourth degree of north latitude.

"The southern branch, holding its course north-easterly, throws down from its south-east flank, the head streams of the Connecticut river, those of the Androscoggin, and those of the Dead river (a branch of the Kennebec river), a little to the north of the forty-fifth degree of north latitude, whilst on the opposite or north-west flank the most southern head streams of the Chaudière river take their rise. Continuing its north-easterly course, it separates the river Du Loup, another branch of the Chaudière, from the most western sources of the Penobscot river which discharges itself into the Atlantic ocean. This ridge is the one which Pownall described, and which the Royal proclamation of 1763 fixes as the southern boundary of the government of Quebec, viz :

"The said line, crossing the river Saint Lawrence and "the Lake Champlain, in forty-five degrees of north

"latitude, passes along the highlands which divide the rivers that empty themselves into the "said river Saint Lawrence, from those which "fall into the sea."

"Having separated the Du Loup from the western sources of the Penobscot, the ridge now trends more to the eastward, but always in a bold continuous manner, until it reaches west longitude 69° 40m. when the peaks become separated occasionally by wide gaps, the portions connecting the peaks being, nevertheless, very elevated. As it passes further to the east, its continuity becomes more interrupted, it assumes a character of much less elevation than it maintains west of seventy degrees of west longitude, so that when it reaches 68° 32m. west longitude it takes a subordinate character, although it still continues to form a part of the axis of maximum elevation. Thence passing north-easterly, and intersected at times by the Roostuec river, west of the tributary stream called Saint Croix; this ridge throws down the eastern branches of Penobscot to the south, and keeping its course by a well defined elevation, south of the Roostuec, it strikes the valley of the river Saint John, nearly opposite to the mouth of the Tobique river. From that point eastward, the country again rises rapidly in elevation, and preserves the same character in a continuous elevated range, interrupted only by a few slight depressions, until it approaches the shores of the Bay of Chaleurs.

"The section of elevations which we have placed on the left margin of the map, taken between the extreme points, viz: the Bay of Chaleurs and the sources of the Saint John, with the barometrical heights in English feet, will give a just view of the elevation of the country along the whole line.

"We have not been able, for want of room, to place upon this section all the barometrical elevations we have taken betwixt the river Saint John and the Bay of Chaleurs. Neither do all the elevations taken by us appear on the map, the scale upon which it is projected not admitting of their being all placed on their respective localities. That part of the section nearest to the Bay of Chaleurs only represents the height of the land on the northern face of that portion of the axis of maximum elevation which runs between the points above spoken of. A line running westerly from Bathurst, and a little to the south of Middle River, gives a series of elevations in English feet above the sea, from east to west, as far as Nicot Lake, where the line joins the series of elevations of the northern face, as follows: 236, 378, 550, 714, 815, 779, 802, 873, 1,049, 1,078, 850, 1,367, 1,934, 1,261, 819, 1,845, 2,110, 1,583, 1,846, 2,110. The distance upon which these elevations are distributed is about fifty-six miles, a few of these were taken upon conspicuous peaks, but the intervals between them are continuously of a lofty character.

"The general aspect of the whole line corresponds with its height, and is mountainous.

"The Nepisiguit river, which flows to the east, and which empties itself into the Bay of Chaleurs at Bathurst, takes its rise, together with its upstream branches, in this chain, as likewise does the Upsalquitch, which flows to the north to join the Restigouche.

"From Nicot Lake, the axis continues to the river Saint John, in a south-westerly direction, trending between the Tobique river and the Salmon river, in a bold continuous ridge, varying from 750 to 1000 feet. On the west side of the Saint John it reappears on the south bank of the Roostuec, near the Falls of this river, where it has an elevation of 710 feet. From thence, the section, with the heights expressed in English feet,

exhibits the elevation of the country to the sources of the Saint John. We have not continued it any further to the south-west, as the ridge from thence preserves a continuous lofty character to the head waters of the Connecticut river, with an average height of about 2000 feet. We thought it unnecessary to extend the section to so great a distance, nor could we have done it conveniently upon the proper scale.

"We therefore present this axis of maximum elevation of the whole country as the true highlands intended by the 2nd article of the treaty of 1783, uniting to the character of "highlands" as contra distinguished from lowlands, the condition required by the treaty of dividing the "rivers that empty themselves into the Saint Lawrence from those which flow into the Atlantic ocean, to the north westernmost head of the Connecticut river."

It will be seen hereafter, that this is the only part of the disputed territory where "highlands" of a similar character are to be found.

(P. 53).—"We have, in the first place, endeavoured to show that we should have been acting inconsistently with the information which we possess, and with the facts which we have to report, if we had adopted the ground which the official British agents, who have preceded us in the investigation of this boundary question, relied upon as essential to the maintenance of the British view of the question, viz: that the boundary intended to be established by the 2nd article of the treaty of 1783, was to be a line distinct from the southern boundary of the Province of Quebec, as established by the Royal proclamation of 1763. In opposition to that erroneous impression, we have felt it our duty to show that those lines were one and the same thing. Indeed the very definition of the point in the treaty, viz: the coincidence of the due north line with the highlands, proves that the commissioners for negotiating the treaty of 1783, considered the "highlands" of the treaty to be one and the same thing with the southern boundary of the Province of Quebec; for if Nova Scotia had extended further to the north or to the west, than the point where the due north line was to intersect the highlands, that point would have been the north east angle of the State of Maine, but could not have been the north-west angle of Nova Scotia. For the true north-west angle would have been still further to the north or to the west, at whatever point the western boundary of Nova Scotia touched the southern boundary of the Province of Quebec.

No 34.

Statement concerning the north-west angle of Nova Scotia, extracted from the first Statement on the part of Great Britain in the reference made under the 5th article of the treaty of Ghent.

"In treating the first stated branch of difference, the principal question to be determined is this:

"Where is the point designated in the treaties as the north-west angle of Nova Scotia?"

"This point can only be determined by first determining the other objects by which, according to the treaty that angle is entirely governed, namely, *the highlands, and the rivers to be divided by those highlands.*

"It will be observed that the 2nd article of the treaty of 1783, after mentioning the north-west angle of Nova Scotia, as the *point of departure*, from whence is to be traced the line of northern boundary for the United States, in this part of the Province of Massachusetts Bay, describes that *point* as angle formed by a line drawn due north from the source of the Saint Croix river to the highlands, and the *line* as running "along "the said highlands which divide those rivers that "empty themselves into the river Saint Lawrence from "those which fall into the Atlantic ocean, to the north "westernmost head of the Connecticut river."

"Great Britain contends that the point thus described is found at or near an elevation, called Mars Hill, which is situated in a due north line drawn from the source of the Saint Croix river, and south of the river Saint John; that the highlands intended by the treaty are those extending from that point to the Connecticut river; and that the rivers Penobscot, Kennebec, and Androscoggin, are the rivers falling into the Atlantic ocean, which are intended by the treaty to be divided from the rivers which empty themselves into the river Saint Lawrence."

No. 35.

Extracts from remarks, made on the part of Great Britain, on the transcript of a map, communicated as evidence on the part of the United States, shewing the Restigouche river, as the boundary between Canada and New Brunswick.

"The Province of New Brunswick is laid down as extending to the northern branch of the river Restigouche, which is represented as forming the southern boundary of the Province of Lower Canada. This is perfectly arbitrary and unsupported by any proof, the boundary between these two Provinces having never been ascertained, and being still subject to conflicting provincial claims. But this is altogether a matter of domestic regulation, with which foreign nations can have no concern."

No. 36.

Extract from remarks made on the part of Great Britain, on certain documents communicated as evidence on the part of the United States, shewing the extended jurisdiction of New Brunswick over the disputed territory.

"The remarks before cited from the first American statement relating to acts subsequent to the treaty of 1783, will also apply to these documents, which are all of a later date than that instrument.

"The object of producing them, as evidence on this occasion, would seem to be to shew an actual jurisdiction by the British Province of New Brunswick, as against her sister Province of Canada, on the upper part of the river Saint John, and as far north as the river Restigouche.* Whatever might be the effect of this evidence in a controversy as to limits between the above named British Provinces, which can only be de-

* A line along the channel of a river can never be a line along "Highlands."—(British Statement.)

cided by a British tribunal, it establishes, in the present national controversy against the United States, a clear British possession and jurisdiction in the places in question. When taken in connexion with the claim of Canada to jurisdiction and territory as far down as the Great Falls of the river Saint John, it also clearly proves, in opposition to the American argument in this discussion, the uncertain and unsettled condition of the provincial limits."

No. 37.

Copy of a confidential despatch of Sir G. Murray, of the 8th April, 1830, relative to the claims of Canada and New Brunswick to jurisdiction within the disputed territory.

(Copy.)

"Confidential."
Duplicate.

"Downing Street,
8th April, 1830.

"SIR,—With reference to my despatch of the 7th instant, "confidential" transmitting the first statement on the part of Great Britain of the disputed points under the fifth article of the treaty of Ghent, I have now the honor to acquaint you, that, in order that our conduct may be consistent with our arguments, it is necessary that the Province of Lower Canada should continue, without interruption, to exercise actual jurisdiction over the "Fief of Madawaska." This Fief covers the whole of Temisquata Lake, and nine miles in length down the river Madawaska, which issues from that lake. The Province of New Brunswick, as proved on the trial of John Baker, exercises actual jurisdiction over the Madawaska settlement, but this settlement extends along the main river Saint John, both above and below the confluence of the Madawaska river; and no jurisdiction appears de facto to have been exercised by New Brunswick on the Madawaska river above its mouth, where a grant of land was made by the government of that Province to Simon Hebert, in 1825.

"Under these circumstances, therefore, it is advisable for the government of Lower Canada to maintain and exercise its jurisdiction over the lake Temisquata and the river Madawaska quite down to the aforesaid grant to Simon Hebert at its mouth, which will include the whole "Fief of Madawaska," and the government of New Brunswick to maintain and exercise its jurisdiction, as heretofore, in other parts of the disputed territory, including the Madawaska settlement on the main river Saint John, but not to extend it up the river Madawaska. I have communicated corresponding instructions to Mr. President Black, administering the government of New Brunswick.

"I have the honor to be,

"Sir,

"Your most obedient humble servant,

"(Signed,) G. MURRAY."

Lt. Gen. Sir Jas. Kempt,
G. C. B. &c. &c. &c.

No. 38.

Extract from Reports of the debates in the New Brunswick Legislative Assembly concerning parts of the disputed territory as contained in "The Loyalist and Conservative Advocate," a newspaper published in Fredericton, N. B., 8th March, 1844.

HOUSE OF ASSEMBLY,
Saturday, February 24th.

"Division of Carleton Bill.

"The House went into a Committee of the whole on the bill to divide the county of Carleton.

"Mr. Perley, (M. P. for the county of Carleton) said that the extreme length of the county, it being from 150 to 160 miles, rendered a division necessary. The county buildings being situated at Woodstock, near the lower end of the county, the inhabitants of Madawaska had to travel 100 miles to the court. He thought also that by dividing the county now it might strengthen the claim of this Province in settling the boundary with Canada, as it would give us the right of possession. He said that the long distance the people in the upper part of the county were situated from the gaol made it very difficult to administer justice, in consequence of which many cases were left unnoticed.

"The lumber trade was now flourishing in that part which would form the new county, owing to which circumstance the inhabitants were as well able to defray the expenses of the new county buildings now as they would be at any future period; besides which they were all in favour of the division, he hoped the house would pass the bill.

"Mr. End, (M. P. for the county of Gloucester) said that the question for dividing the county of Carleton had come up before, when the principal objection urged against it was the unsettled state of the boundary; but now the American boundary was settled he thought the house was bound to give them another county. The French of Madawaska were a fine loyal set of fellows, and he (Mr. End) would go for the bill. He would like to know what they intended to call the new county? He hoped they would call it Metcalfe; he hoped the bill would pass, for the French of Madawaska were deserving of the privileges of the British constitution, of which they are now virtually deprived.

"Mr. J. A. Street, (M. P. for the county of Northumberland) said it was desirable to have more information on the subject.

"He thought a sketch of the outlines of the county, and account of its inhabitants, &c., and the probable line of boundary betwixt this Province and Canada, should be laid before the Committee. As to its length, 160 miles was too much for one county; yet they should know if the population set off would be sufficient for a county; and whether they would be able to support the county expenses, &c. He was favourable to the bill, if these questions were satisfactorily answered, as it was almost injustice to compel people to travel 100 miles to court.

"Mr. Connell, (M. P. for the county of Carleton) said the county was about 150 miles long, and the division line being fixed at Rivière de Chute would leave the old county about 55 miles in length. With regard to the utility of the measure, he thought that no better evidence could be given than that the people in each division were eager for it. At present it was almost

impossible to execute justice in the upper part. The shire town thought must be fixed near the mouth of the Tobique, or at the Grand Falls; but that was a question that was proposed should be left to the decision of the Lieutenant-Governor.

"Honorable Mr. Wilmot, (M. P. for the county of York) said that the strongest reasons could be urged in favour of the bill, was that a populous part of Madawaska on the south shore of the Saint John now belonged to the United States, where American institutions were already in full operation, while on the British side, —just across a narrow river, the people were totally neglected. If nothing be done to counteract the influence such a state of things were calculated to bring about, comparisons would be drawn which could not fail to be unfavourable to British institutions. Madawaska was a thickly settled district, and even if the boundary between this Province and Canada should be settled according to the pretensions of that colony, which was the river Madawaska, the proposed new county would still be 70 or 80 miles long.

"With regard to the shire town he thought the Grand Falls would be a good situation; it was a central position, and a military station.

"He had been informed that the Engineer department contemplated making a military road from Fredericton to the Grand Falls, and thence to Kamouraski. He hoped the bill would pass, it was the duty of that house to give them the benefit of British institutions, and foster that spirit of loyalty which now happily prevailed there. He would relate an anecdote illustrative of their attachment to Great Britain; since the American boundary was settled the annual militia training took place on the British side of the river, when a great number of the men from the American side came over to train with their old comrades, and under British Officers, and although the officers told them that they were no longer British subjects, and could not be permitted to train there, they still persisted, and would not be driven out of the ranks! and such was their attachment to British laws, &c., that he (Mr. W.) had been informed that a great many of those on the American side were about to abandon their farms and settle on the British side.

"Mr. Fisher, (M. P. for the county of York,) said, they had better not discuss the question as to where the shire town should be, but leave it to His Excellency to determine. As to the bill, it appeared as though there were scarcely two opinions on the subject. He (Mr. F.) heartily concurred with it, and hoped it would pass unanimously.

"Some discussion then took place about the division line, which was finally settled as follows, viz: to commence at the American boundary line where it is intersected by the Rivière de Chuto, then down that stream to its conjunction with the river Saint John, then across that river the shortest course to the line which divides the parishes of Perth and Kent, then following the course of that line until it strikes the boundary of the county of Northumberland. The Bill then passed without a division. (We understand that the naming of the new county is to be left to His Excellency the Lieutenant-Governor, and that it is not to be entitled to send representatives to the House of Assembly until the next general election takes place.)"

No. 39.

Extracts from Reports of the debates in the New Brunswick Legislative Assembly concerning parts of the disputed territory, as contained in "the Loyalist and Conservative Advocate" a Newspaper published in Fredericton N. B., 12th March, 1844.

"HOUSE OF ASSEMBLY,

"Monday, March 4.

"The House then went into a Committee of the whole. Mr. Hanington, (M. P. for the county of Westmoreland,) in the chair.

"On taking up the Message of His Excellency, relative to the settlement of the Boundary question—

"Honorable Speaker, (M. P. for the county of Kent,) said, he did not see the use of a committee reporting on the matter at all, for that laid entirely with the Home government. He thought the report that had already been made by Lord Ashburton was a satisfactory one, and if the question was taken up it should be by the Executive Council, and not by a committee of that House.

"Mr. Partelow, (M. P. for the county of Saint John) said, the Committee, he was sure, had no intention of taking the matter out of the hands of the Executive Council.

"Honorable Mr. Wilmot, (M. P. for the county of York) thought it best to get up a respectful address to the Queen, expressive of their opinions on the subject, but undoubtedly the territory in dispute belonged to them.

"Honorable Mr. Hazen, (M. P. for the city of Saint John) said the question before them was a difficult one, and should be dealt with very cautiously, for the government at Home had done every thing in their power to advance the claims of this Province.

"Mr. End, (M. P. for the county of Gloucester,) thought they had better postpone a discussion of the subject, and pass a resolution in the mean time.

"Honorable Speaker said that when the House asked for information, they were not bound to refer the matter to a Select Committee; it was best to be careful what they were going to do, for the question ought to be handled very carefully.

"It was his opinion that it would be best to let the matter stand to the close of the Session, which would be a fortnight or three weeks, or perhaps a month yet, and that would give honorable members full time for deliberation, and then let the address be the last thing done.

"Honorable Mr. Simonds, (M. P. for the county of Saint John) and W. H. Street, (M. P. for the city of Saint John) agreed with the Honorable Speaker.

"Mr. J. A. Street, (M. P. for the county of Northumberland) said, the subject was one of great interest, inasmuch as it affected the integrity of the Province. He thought that all the documents relating to the subject should be before the committee, and that they should take it into their consideration at the time the Civil List Bill passed, that portion now in dispute was then thought to belong to this Province, but now the Canadians claimed it as belonging to them. He agreed with the Honorable Mr. Wilmot when he said that undoubtedly the disputed territory belonged to New Brunswick, therefore there were but two questions, with regard to

our consideration of the subject—whether the Executive Council should settle the question, or leave it entirely to the Home government. Canadians tried to deprive them of a large tract of land, besides what valuable timber was growing thereon, which if they were to get their ends accomplished, would take from this Province a great part of its wealth, timber being the chief article of commerce. Now, he thought that this was a question for the Home government to settle, and that they should guard our rights, so he, (Mr. Street) wished for as little delay as possible, as it would be a serious loss to the Province to let the question remain unsettled.

“Honorable Mr. Wilmot, (M. P. for the county of York,) said, that if the House would present an address, they should be particularly cautious in what manner the address was prepared; they should express no doubts whatever as to what Province the land belonged, but state plainly and boldly that it belonged to them, and not admit that one single inch of it belonged to Canada.

“Mr. Brown, (M.P. for the county of Charlotte,) said that as far as he understood the question, this Province should go on the Ashburton line and claim all on to the river Saint Lawrence.

“Mr. End’s resolution then passed for postponing the discussion.”

No. 40.

Extracts from Reports of the debates in the Legislative Council of New Brunswick, concerning the disputed boundary between Canada and New Brunswick, as contained in “The Loyalist and Conservative Advocate,” a newspaper published in Fredericton, N. B., 4th April, 1844.

“LEGISLATIVE COUNCIL,

“Thursday, March 21st.

“His Honor the President (Honorable William Black,) took the chair at half-past twelve o’clock; the journals of the preceding day having been read at the clerk’s table.

“The following members were present:—Honorable President, Honorable Messrs. Shore, Robinson, Saunders, Botsford, Attorney General, Chandler, Street, Wyer, Hatch, Johnston, Owen, Craus, and Minchin.

“The house went into committee of the whole in further consideration of a bill to divide the parish of Madawaska, in the county of Carleton, into three separate and distinct towns or parishes.—Honorable Colonel Shore in the chair.

“Honorable Mr. Botsford thought it was a very incorrect mode of legislating to divide the parish of Madawaska, while the line between the two Provinces was in dispute, and by legislating on the subject just now was premature, and it would not make the claim of New Brunswick any better, and might be making a parish that would ultimately be in the Province of Canada. *The only positive claim that New Brunswick had to the Madawaska settlement, was a few miles above the Grand Falls.* If the Canada claims were correct, and he was fearful that such might prove to be the case, even if they divided the parish as sug-

gested by the bill, he thought there would be a difficulty to find sufficient material to do the duties of parish officers, as no doubt a great number of the inhabitants were transient persons, such as lumbermen and squatters, and he would ask what would such men as Lord Stanley and Sir Robert Peel say, when they found they had divided a parish in a part of a county that did not belong to the Province. He (Mr. Botsford) considered they would be injuring their own claims by legislating this way, particularly as there was no great necessity for the bill passing at present.

“Honorable Attorney General (Honorable J. C. Peters) said they had better wait until another year, and by that time, in all probability, the lines between the Provinces would be defined, and there could be no harm done at any rate, as it was not contemplated by the bill to have any parish officers appointed until next January session, even if the bill passed—a few months longer could not make much difference.

“Honorable Colonel Shore said such a mode of legislation was certainly premature. The reason why the parish had not been divided before was, that that part of the country was in dispute between the two governments, but when that was settled by the Ashburton treaty another difficulty arose as to the dividing lines between the two Provinces. He certainly thought they should wait until that difficulty was settled before they made a division of the parish, particularly as it was probable that one of the parishes spoken of would be out of the jurisdiction of the Province; he was quite sure if they passed the bill, the Home government would not sanction it. Lord Stanley would say, “wait until the lines are settled between the two Provinces, before you divide a parish that you are not certain to which of the two Provinces it belongs.”

“Honorable Mr. Chandler would rather wait until it was ascertained whether the county was to be divided before they divided the parish, as there might be a difficulty as to where the bounds of the parishes should be fixed. He (Honorable Mr. Chandler) was for doing justice to all of Her Majesty’s subjects in every part of the Province, as far as lay in his power, but did not think there existed any very urgent necessity for passing the bill until after the new county was established.

“Honorable Mr. Street considered it a most absurd way of legislating, to attempt to pass a bill for the dividing of a parish, which, in all probability, a greater part, when the lines between the two Provinces were settled, would be out of the jurisdiction of the Province altogether. He hoped such would not be the case; but even admitting there was not the slightest prospect of that being the case, he did not see any great necessity in passing the bill at present, at least until the Province line was defined. The parish was not suffering in any way in consequence of its extent that he had ever heard of, and why not let the dividing of it stand over till the next meeting of the legislature.

“Honorable Mr. Minchin was in hopes that the bill would have passed unanimously; he considered the whole of the Madawaska belonged to New Brunswick, and as the treaty was settled with the United States, they should let the inhabitants of Madawaska know that the government was determined to treat them as British subjects, by extending to them all their privileges as such; he certainly hoped the bill would pass, as the parish in question had been deprived of the privilege of having schools long enough.

“Honorable Colonel Wyer was for the bill, and did not think the Canada line question should have any thing to do with the dividing of the parish. He thought the

rights of the inhabitants of Madawaska had been neglected too long already, and wished them to have the privilege of enjoying all the rights which as British subjects they deserved.

"Honorable Mr. Johnston had heard nothing to convince him that the parish should not be divided, whether the county was divided or not, and thought the bill had stated properly how the parishes should be defined, and if it should so happen that the upper parish ultimately belonged to Canada or not, that should not prevent them from doing justice to those persons living on the Madawaska. Some parts of the bill was imperfect, but those parts could be very easily put to rights.

"Honorable Mr. Crane was against the measure for two reasons; the first was, he thought the parish should not be divided until the new county was established; and the other was that a part of the Madawaska was in dispute between the two Provinces.

"Honorable Mr. Saunders said they should take up the measure in the same way as if Canada had never made any claim at all on the subject. The question was, shall they or shall they not grant to the inhabitants of Madawaska the same protection that is granted to other parts of the Province: he for one most certainly thought they should. If Canada should get what she claims, to-morrow, let her take it, but that should not prevent them from doing their duty as legislators; and he would ask, why should the inhabitants of Madawaska be deprived of the legislative privileges that all other parts of the Province enjoy. He considered the parish should have been divided years ago, and that in all probability that would have been done, only Great Britain agreed with the United States to remain quiet and not hold any jurisdiction over the disputed territory, only as far as what was actually necessary, until the subject was settled. He thought one of the great reasons why the Province had lost so much of the best part of the territory, was, because of her supineness in not looking well after her rights. If Canada gets any part of the Madawaska, Great Britain will not lose it; therefore, that should not prevent them from passing the bill.

"Honorable President thought the inhabitants of the parish of Madawaska had been neglected too long; and now they were desirous of enjoying the same privileges as the inhabitants of other parts of the Province. He hoped the bill would pass, and they would see that the legislature was in earnest to protect them; he thought Canada claims should have nothing to do with the present question.

"Honorable Captain Owen was in favour of the bill. The inhabitants of Madawaska had shown themselves to be a loyal people, and were entitled to the same privileges as all others of Her Majesty's subjects.

"Honorable Mr. Hatch would support the bill, and thought the dividing of the parish would be of great service to the place. As to the Canada claim, that should not prevent them from doing justice to the inhabitants.

"On the motion of the Honorable Mr. Johnston, that the chairman leave the chair, and report the bill as agreed to, the committee divided as follows:—Content—Honorable President, Honorable Messrs. Saunders, Hatch, Wyer, Johnston, Owen and Minchin. (7.)—Non-content—Honorable Messieurs Shore, Robinson, Botsford, Attorney General, Chandler and Street. (6.) It was carried in the affirmative; but on the question being put by the President, that the report be accepted, the house divided even, and the President not being allowed to vote, the bill was lost."

No. 41.

Extract from Reports of the Debates in the Legislative Council of New Brunswick, concerning parts of the territory in dispute between Canada and New Brunswick, as contained in "The Loyalist" and "Conservative Advocate," a newspaper published in Fredericton, N. B., 10th April, 1843.

"LEGISLATIVE COUNCIL,

"Monday, April 1st.

"DIVISION OF THE COUNTY OF CARLETON.

"Honorable Colonel Shore in the chair.

"Honorable Colonel Wyer was in favour of the bill, and hoped the county would be divided; and thought the great distance of the shire town from the upper end of the county called for it; and had heard that the inhabitants had suffered on account of the great distance to the county town to transact business, and the long distance the inhabitants of the upper part of the county were situated from the public buildings, made it very difficult to administer justice; in consequence of which many persons escaped the justice of the law. He thought the great distance persons would have to travel to attend the courts should be a sufficient reason why the bill should pass, particularly, when the inhabitants had petitioned for it, and had sent a petition to the legislature, numerously and respectfully signed, by the inhabitants. A very strong reason why the bill should pass, was, that on the American side of the Madawaska, the Americans were putting up public buildings, and American institutions were in full operation; while on the British side, across the Saint John river, the people were altogether neglected. He hoped the bill would pass, for the inhabitants of Madawaska had been neglected too long already, and were deserving of the same privileges that Her Majesty's subjects enjoyed in other parts of the Province.

"Honorable Mr. Minchin was in favor of the bill, and thought the whole of Madawaska belonged to New Brunswick. It was contemplated to divide the county of Carleton at the river de Clure, which would make the old county something like 50 miles in length.

"On the river Saint John, many of the inhabitants had to travel over 100 miles to the shire town in Woodstock, to attend the courts as jurors, and on other business.

"If the inhabitants were not summoned as jurors in the upper part of the county, it would be doing them an injustice, and if they did attend, their expenses would be enormous; and it was impossible that Madawaska could prosper when the public buildings were at so great a distance. He thought the county of Carleton had a better claim than any other county that had been divided for many years; the new county would then be nearly 200 miles long. He claimed five above the Madawaska river as belonging to New Brunswick, and he considered, Canada had no right to an inch of land in Madawaska.

"He hoped the bill would pass, and then the inhabitants of the upper part of the county would know that the legislature intended to look after their interests.

"Honorable Mr. Botsford said when the bill first came before the house, he did not think it would be sustained at all; and if they passed it they did so against every true principle of legislation, and would be establishing a new county in a territory of which

100 miles was in dispute with Canada. He did feel called upon to oppose such a measure, until the lines were properly established between the two Provinces. Their legislating on the subject would not, by any means, strengthen their claims. Her Majesty's government would settle the boundary, and that very soon; and when that was done, if there was a sufficient number of inhabitants, and proper material to attend to the duties of a county, he would be willing to divide it, at present he did not think that was the case. Another thing, it was impossible to tell where the shire town should be and did not think it fair to legislate and establish a new county in a territory that was in dispute with the sister colony, to add two representatives to a part of the country that had not near as many inhabitants as some other counties that sent only two representatives.

"If it was necessary that more magistrates should be appointed to attend to the parochial duties of the county, no doubt the executive would appoint them if proper information was given. He thought that a great degree of caution was necessary in dividing counties, as it always increased the expenses of the government. At the present time he would oppose the bill in every stage, as it was impossible to tell where the shire town should be, and did not think the present state of the county called for it, and instead of its being a great boon to the inhabitants, it would be a great injury, as they would be called upon to pay heavy taxes to assist in erecting public buildings, which he believed from the information he had received of late, that they were not able to pay. Another thing, there was not as he could learn sufficient material to do the duties of a county; when the lines were settled he would be willing to support such a bill if found necessary. He could have no interest in opposing the bill, any further than doing justice, and legislating properly, neither did he mean to say that Canada had a right to the territory she claimed. He believed otherwise, but that it was in dispute and that it would not be practicable or proper to divide the county until Her Majesty's government settled the Province lines. At the present time there were but very few freeholders in that part which was to form the new county, and consequently would not be able to pay the taxes that would be necessary to put up the public buildings.

"Honorable Captain Owen said, an argument had been urged against the bill, because there were no freeholders in the new county; he would support the bill if there was only one freeholder, just enough to return a member. It was now due to the inhabitants, that the division should take place in every point of view: their magnitude, their number, and the great distance to the shire town to attend to public business.

"If the inhabitants of Madawaska were not summoned to attend the courts, it was because the distance was so great that it was found almost impossible to do so. As to the lines not being settled between the two Provinces, he did not think that should have any thing to do with it, and thought they should proceed just in the same way as if Canada had never set up a claim at all; and there was no official information before them to show that Canada had made any claims to the Madawaska, and if she had, he thought they were unjust. The arguments made use of by the Honorable Mr. Botsford, put him in mind of a Devonshire man, who had his hat stolen from him; a man came along and found him making a dreadful noise, and asked him "What was the matter?" "Why," says he, "that man, a-head there, has stolen my hat!" "Well," says the man, "why dont you run after him, and catch him, and take it from him?" "Oh, I can't," says he, "for I'm tired!" "Well," says the man, "if you can't run, I'll take your wig!" and off he

started with it!!! That was precisely the case in question: Jonathan had taken the best part of the territory that was in dispute, and Canada comes along, and says, "If you do not look out for your rights, I will take the remainder." He for one, did not feel disposed to give way to Canada in this case, for he considered the whole of the Madawaska belonged to New Brunswick, and if they had no other claims, they had possession for about sixty years, which was nine points of the law. The first that should be done in any country towards civilization, was to give them municipal institutions, and bring the laws as near their homes as possible. He hoped the bill would pass, as he thought it would be doing the inhabitants an injustice to delay it another day.

"Honorable Colonel Shore said, there could be no inconvenience as to attending courts, for the Acadians were never summoned to attend, and they pay no taxes. They were once taxed £50, but an order was issued by the council to have it returned, which was done. He thought it premature to legislate at all on the subject, until the lines were settled with Canada.

"As to Madawaska being deprived of schools, that was not the case, for they were entitled to thirteen schools at present, but he had never heard that there were ever more than three established at one time. As to there being a petition before the legislature numerous and respectfully signed, he believed nine-tenths of the names were signed by three magistrates who wanted to have the county divided in order that they might be promoted. He had seen a gentleman from the upper part of the county, who had told him to beware of the petition, as not one quarter of the persons whose names were affixed, knew any thing about it.

"If there was any necessity for the Bill at present, and that it would be of advantage to the inhabitants to pass it, he would not object to it, but instead of its being an advantage it would be a great injury, for they would be called upon to pay heavy taxes, to erect public buildings, which they were not able to pay at present, and would rather submit to any little inconvenience, than be burthened with a heavy tax. He was as anxious as any person to do everything that might advance the interests of the inhabitants of the Upper Saint John, and when the Canada lines were properly settled, if it was found necessary, he would be willing to give them a new county, and not till then."

No. 42.

Extracts from the Debates in the British House of Commons, on the Quebec Act of 1774, as reported by the Right Honorable Sir Henry Cavendish, Baronet. (London, 1839.)

"HOUSE OF COMMONS,

"Thursday, May 26, 1774.

Page 16.—(Mr. Dunning).—"The first object of the bill is to make out that to be Canada, which it was the struggle of this country to say was not Canada. Now, sir, if this Province should ever be given back to its old masters—and I am not without an inclination to think, that the best way would be to give it back to its old masters—if it should ever become right to give back Canada, with what consistency can a future negotiator say to France, we will give you back Canada, not that Canada which you asserted to be

Canada, but that stated in the Proclamation, having discovered that we were mistaken in the extent of it; which error has been corrected by the highest authority in this country.

Page 24.—*The Attorney General* (Edward Thurlow, Esquire.)—"I do not rise to avow or disavow any thing. I should think I flattered myself if I presumed, in case I had drawn every line of the bill, that that circumstance would go any way to recommend it to the consideration of the House; much less do I hope to change the opinions of either of my honorable and learned friends who have spoken upon the subject; because, when they have told you they oppose the second reading, they have not acquainted the house with any measure, either of policy or justice, which they would substitute in the place of it, and yet I flatter myself it would require very little argument to convince us, that something ought to be done upon the present occasion. But the honorable gentlemen have gone a considerable way beyond the question immediately before us, for, not confining themselves to that question, they have anticipated the business, and have gone to new arguments for new forming the bill, which do not apply against reading it a second time but rather for it. Sir, I will follow them so far as to state to the house, and endeavour to answer the objections they have urged. The honorable gentlemen complain, that the bounds of Canada extend a great way beyond what they were acknowledged to do formerly, and that it was peculiarly bad policy, as far as regarded the French, to give the limits so great an extension. Now, the house will remember, that the whole of Canada, as we allowed it to extend, was not included in the proclamation, that the bounds were not co-equal with it as it stood then, and that it is not included in the present Act of Parliament, if that were material.

"But I will not, Sir, consider it as the province that formerly belonged to France, nor is called by the same name: it is a new scheme of a constitution adapted for a part of the country, not that part only which was under French government, but embracing many other parts of great extent, which formerly were not actually under French government, but were certainly occupied in different parts by French settlers, and French settlers only. The honorable gentlemen are mistaken if they suppose that the bounds described embrace, in point of fact, any English settlement. I know of no English settlement embraced by it. I have heard a great deal of the commencement of English settlements; but as far as I have read, they all lie on the other side of the Ohio. I know, at the same time, that there have been for nearly a century past, settlements in different parts of all this tract, especially the southern parts of it, and to the eastern bounded by the Ohio and Mississippi; but with regard to that part, there have been different tracts of French settlements established, as far as they are inhabited by any but Indians. I take those settlements to have been altogether French; so that the objections certainly want foundation. With regard to the east, there is no doubt but the bounds of those parts are extended largely; and that the laws by which they are proposed to be governed are calculated either for a country perfectly settled, which is not the case of that country at present to the south, or they are calculated to carry that degree of control and authority which is necessary. As to the settlements that lie to the south, in order to prevent the inconvenience of uncontrolled settlement in that view, I have been persuaded to think the extent of this Province may be a political and a proper measure; but with respect to the circumstance of the French founding any claim upon it, I confess it is a notion more refined than my understanding will embrace. My notion is, that in the state they were in,

they were nearer to this country, and their claim against the length of that extent depends upon no other circumstance whatever. It is undoubtedly true, if you read the French history, that the bounds prescribed neither are, nor ever were, the bounds of the Province of Canada, as stat. : by the French; and, therefore, the argument itself is not a proper one to proceed upon. But, Sir, let us consider it in a point of view more serious. Let us consider it established as an English province. The house has been told, that this bill trenches considerably upon the claim of other chartered provinces. I do not pretend to be extremely familiar with their bounds, but I apprehend Pennsylvania has never been stated by any of its proprietors to go one acre of land within the precincts of this new province. With regard to other chartered governments, there is no doubt that various contests to the north of Pennsylvania have arisen upon their bounds, and this has been stated, and allowed by His Majesty in his privy council; which I suppose, was the occasion of introducing the phrase in this part of the bill. With regard to the more southern part of the country, I do not take it that Virginia has ever made a single claim within more than a hundred miles of the bounds prescribed for the present province. The most extensive claim I ever heard of, went to what is called the endless mountains, just in a nook of the Province of Virginia. I know of none that ever pretended to exceed that, nor ever heard that some new settlements which were applied for, between those mountains and the Ohio, have ever been looked upon as an invasion of the rights of those who have claims upon the Province of Virginia.

Page 29.—"Look back, Sir, to every page of history, and I defy you to produce a single instance, in which a conqueror went to take away from a conquered province, by one rough stroke, the whole of their constitution, the whole of their laws under which they lived, and to impose a new idea of right and wrong, of which they could not discern the means or the end, but would find themselves at a loss, and be at an expense greater than individuals could afford, in order to inform themselves whether they were right or wrong. This was a sort of cruelty, which I believe, was never yet practised, and never ought to be. My notion, with regard to this matter, I will venture to throw out as crude and general. To enter into the subject fully, would require more discussion than the nature of such a debate as this will admit of. My notion is, that it is a change of sovereignty. You acquired a new country; you acquired a new people; but you do not state the right of conquest, as giving you a right to goods and chattels. That would be slavery and extreme misery. In order to make the acquisition either available or secure, this seems to be the line that ought to be followed—you ought to change those laws only which relate to the French sovereignty, and in their place substitute laws which should relate to the new sovereign; but with respect to all other laws, all other customs and institutions whatever, which are indifferent to the state of subjects and sovereign, humanity, justice, and wisdom equally conspire to advise you to leave them to the people just as they were. Their happiness depends upon it; their allegiance to their new sovereign depends upon it.

Page 184—June 6th.—*Lord North*.—"There are great difficulties, as to the best mode of proceeding. I apprehend the alteration I am about to propose will save every right where there is a right. I will explain the amendment I intend to make; if that should not give satisfaction, gentlemen will state what it is they propose to substitute in its stead. We shall then ascertain how far we shall be able to make any thing more precise. The question is an extremely difficult

one. It is usual to have different boundaries laid down in different manners. Where the King is master of the country, there they are drawn by His Majesty's officers only; where there has been any grant or charter, and it has been necessary to draw a boundary line, then, not only His Majesty's officers but commissioners have been appointed, and together they draw a line, subject afterwards to an appeal to the privy council; therefore that distinction is made here. It is intended, immediately after the passing of this Act, to go on with the project of running the boundary line between Quebec and New York and Pennsylvania, &c., belonging to the Crown. This is made to prevent the Province of Quebec from encroaching on the limits of any of those grants where no boundary has been settled. I find many gentlemen are desirous of having something still more precise, if possible. To this I have no objection; but we are so much in the dark as to the situation of this country, that it is not possible to do any thing more safe, than saving the rights of the other colonies, leaving them to be settled on the spot by commissioners."

No. 43.

Extract from a Letter dated the 21st June, 1785, from George Sproule, Esquire, Surveyor General of New Brunswick, to Samuel Holland, Esquire, Surveyor General of the Province of Quebec, on the subject of the boundary line between those Provinces.

"CITY OF SAINT JOHN'S,

"21st June, 1785.

"MY DEAR SIR,

"I had the pleasure of receiving yesterday your letter of the 23rd May, which is the only one of yours that has come to hand since December last, at which time I received one in London by an officer from Quebec.

"The meeting you propose on the business of ascertaining the line between the provinces would afford me the utmost pleasure, but the necessity of such a measure does not appear to us so very essential at present, nor would the hurry of business in my office afford me leisure to do it, without too great an obstruction to the more material business of settling the refugees in this part of the Province.

"By your letter you seem to think that the Tamasquata lake and the discharge therefrom (or the Madawaska river) fall into your Province; surely some great mistake or misinformation must occasion this idea.

"New Brunswick is bounded on the northward by the bounds or line settled by Act of Parliament between Nova Scotia and Canada, which Act expressly mentions the line between those Provinces is to run on the height of land separating the rivers that fall into the Saint Lawrence from those that fall into the Sea; therefore the Tamasquata waters discharging themselves by the Madawaska into the Saint John and by that river into the Sea, renders the business so clear that your error can only originate from a want of knowledge of our limits, or not having lately perused the Act describing the bounds of your Province.

"Governor Carleton, I believe, purposes writing on this subject, to Lieutenant-Governor Hamilton, by this opportunity.

"A communication over-land, from here to Canada is earnestly wished for, but I fear little can be done in that business by this Province for some time to come; your idea of forwarding it, by settling the Madawaska, we much approve of, and as many settlers as chuse that situation will receive every encouragement, and have lands assigned them on application here. This business, I find has been for some time in contemplation, some licences of occupation being already granted by Governor Carleton."

No. 44.

Extract from the Original Grant of the Seigniority of Lake Matapediach.

"Concession du 26me Mai, 1694, faite par Jean Bochard, Intendant, au Sieur Nicholas Joseph Damour, du Lac appelé *Matapediach*, avec une lieue de terre tout autour d'icelui."

Régistre d'Intendance, No. 4, folio 17.

No. 45.

List and Description of the Maps appended to the Report on the Boundary Line between Canada and New Brunswick.

1st—GENERAL MAP, A.

This Map embraces the whole of the country from the 64th to the 72nd degree of west longitude, and between the 45th and 49th degrees of north latitude, comprising within its limits the entire region traversed by the original southern boundary line of the Province of Quebec, from the gulf of Saint Lawrence to the Connecticut river.

Upon this Map are delineated the most important features of the country, together with the general divisions of the same, whether natural or artificial, as far as authorities could be found for doing so correctly; and the whole is carefully adjusted according to the latest observations for latitude and longitude, approaching, as it is believed, to a degree of accuracy not before attained in any compilation of the kind, relating to the same sections of the country.

This Map is mostly taken from a larger compilation, comprising all the British North American possessions, which is now in the course of completion by Joseph Bouchette, esquire, of the Surveyor General's Department in this Province, the parts embraced in the present Map A being improved by the introduction therein of all the emendations contained in the other compilations, made expressly for illustrating and explaining this report.

2nd—MAP B.

This is a topographical Map, compiled from various official plans of surveys and explorations, made under the respective authorities of the governments of Canada, New Brunswick and the American State of Maine. It is laid down on a large scale for the purpose of serving as a distance Map, as well as for showing in a distinct form, the several grants made by either government within the limits of the disputed territory. The latitudes and longitudes are adjusted according to the observations of Dr. Tiarks, the British astronomer, formerly employed in exploring part of that territory.

3rd—MAP C.

In many respects Map C is similar to the before mentioned Map B, being an entirely new compilation drawn on the same scale as the latter, and like that, adopted to the latitudes and longitudes given by Dr. Tiarks.

The principal object for which this Map is required is for showing clearly and distinctly, in conjunction with other, *written* authorities, the true and relative positions of meridian lines proceeding northward, from the western and northern sources, respectively, of the river Sainte Croix, and also the actual direction of the exploratory north line from the latter source, as traced in 1817 and 1818, and since confirmed by the treaty of Washington, as the separating line between Her Britannic Majesty's possessions and the adjoining part of the American State of Maine.

4th—MAP D.

This is simply a transcript of a Map received from New Brunswick, certified by the signature of the Surveyor General of that Province, and showing the position, date and amount of all grants of land made by the government of New Brunswick, to be west of the exploratory north line, traced from the northern source of the river Saint Croix, and to the north of the river Saint John.

5th—MAP E.

Map E. is a copy of a sketch received from New Brunswick, certified by the Surveyor General of that Province, shewing the original position of the reserve for the town of Dalhousie.

6th—MAP F.

This Map is an extract from an official plan of sundry surveys, made under the authority of New Brunswick. It contains the delineation of certain lots of land granted by that Province, the descriptions of which grants are found in documents inserted in this Appendix Nos. 18 and 19. Those documents in conjunction with Map E, form very important evidence to oppose to the statement, made on behalf of New Brunswick, concerning the position of the head of the Bay des Chaleurs.

Montreal:

DESBARATS & DERBISHIRE, Printer to the Queen's Most Excellent Majesty.

1844.

Map,

Shewing the SOUTHERN BOUNDARY of the

PROVINCE of CANADA

According to the ROYAL PROCLAMATION of 1763 and the

IMPERIAL ACT of 1774 Called the QUEBEC ACT

Distinguishing that PORTION of the BOUNDARY settled CONVENTIONALLY

WITH THE UNITED STATES BY THE TREATY OF WASHINGTON IN 1842,

And exhibiting the LINE of BOUNDARY Claimed by the Province of

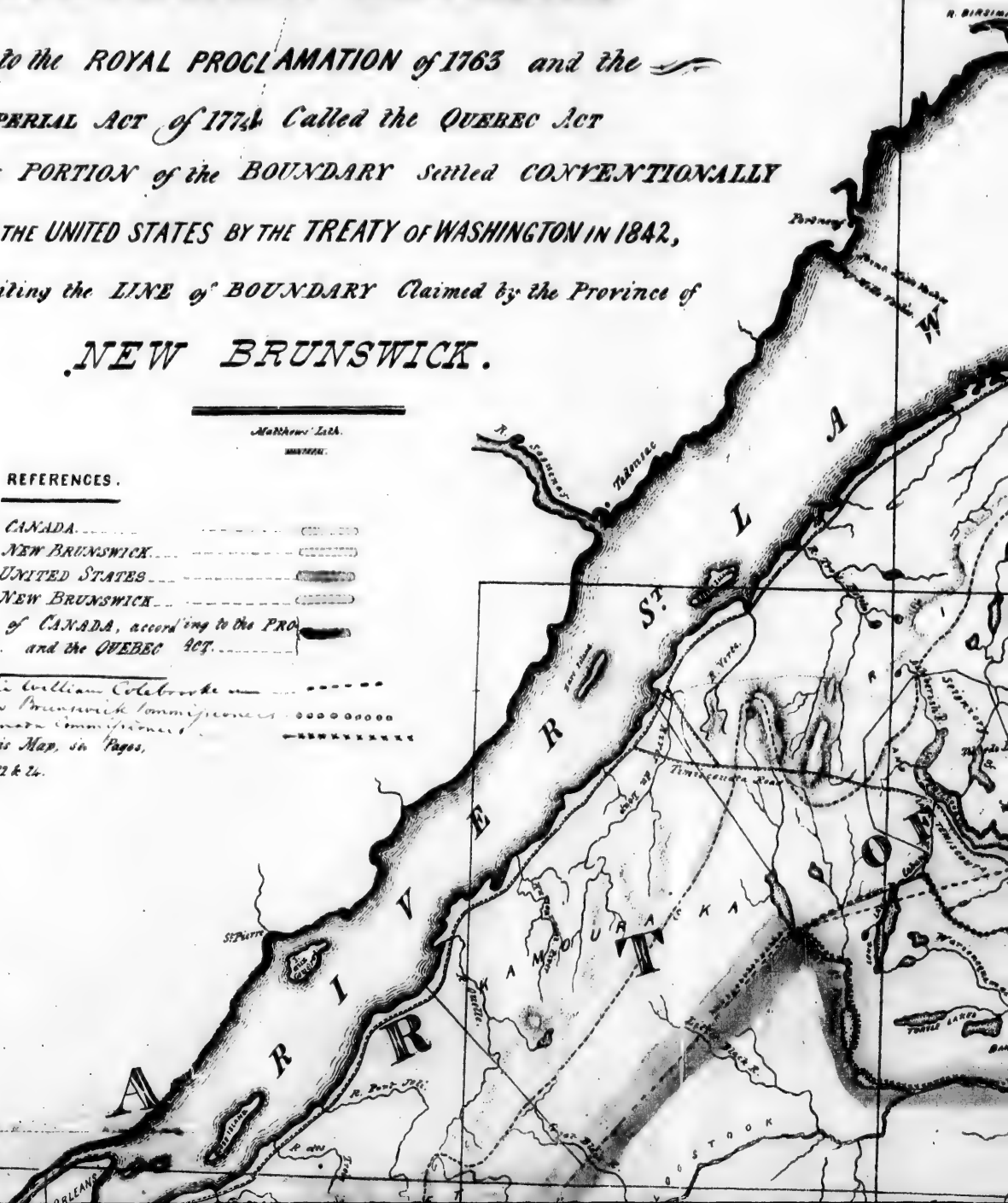
NEW BRUNSWICK.

Northern Limit.
MARTIN.

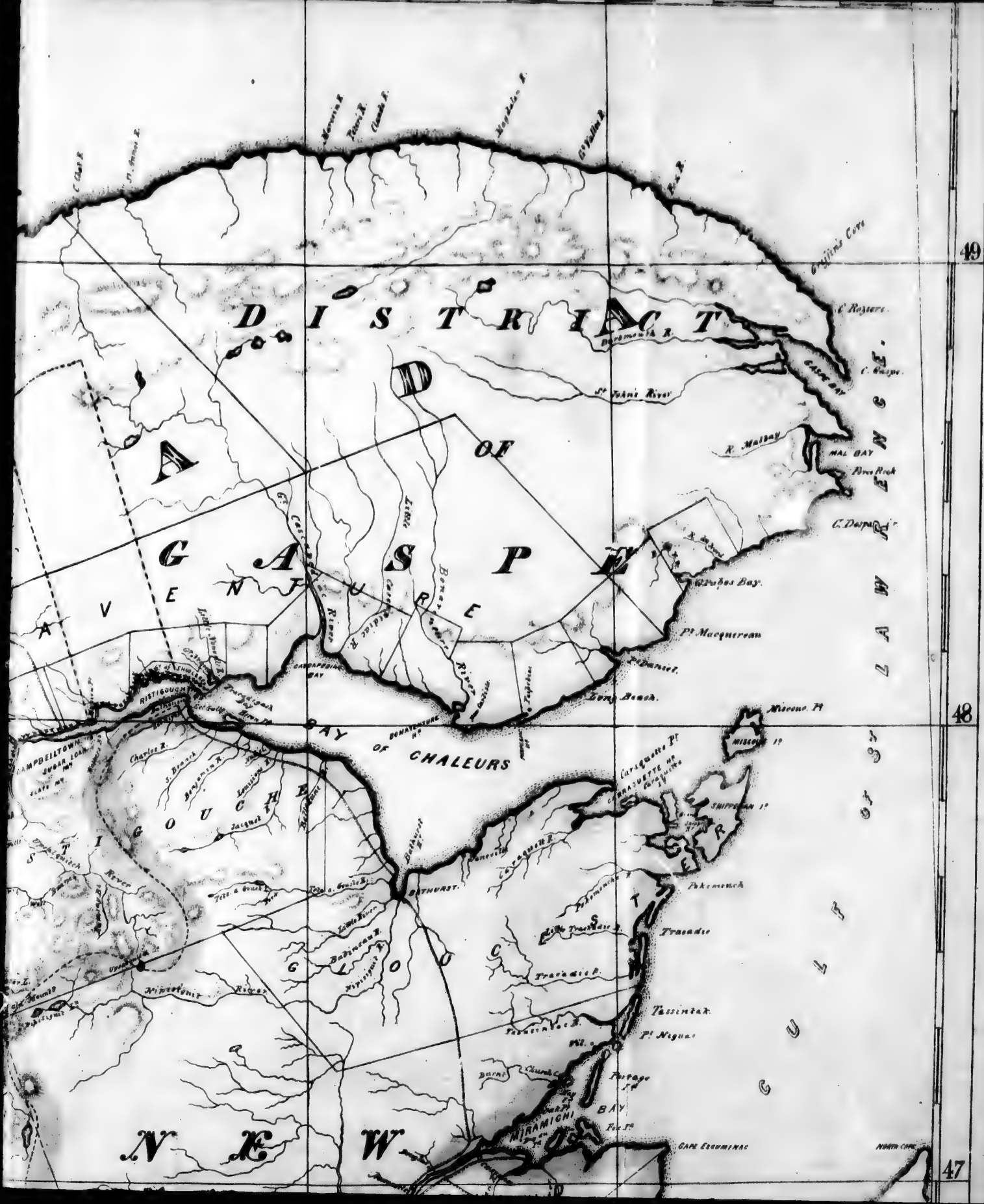
REFERENCES.

Southern Boundary of CANADA.
Boundaries of NEW BRUNSWICK.
the UNITED STATES.
Line Claimed by NEW BRUNSWICK.
Part of the Boundary of CANADA, according to the PRO-
CLAMATION of 1763. and the QUEBEC ACT.

Line proposed by Sir William Colebrooke.
Line suggested by New Brunswick Commissioners.
Line suggested by Canada Commissioners.
For References to this Map, see Pages,
3, 4, 5, 7, 8, 10, 12, 16, 22 & 24.







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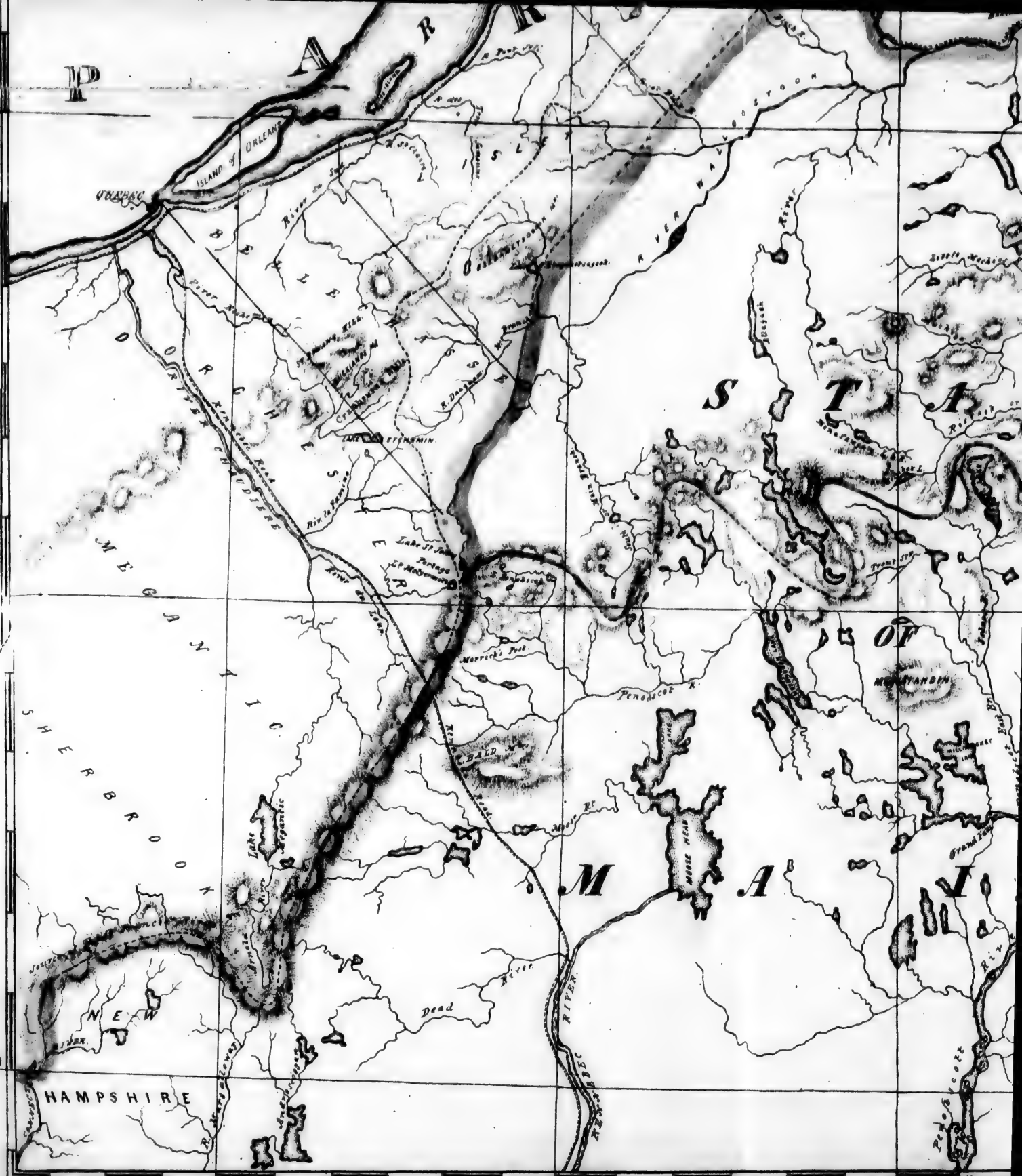
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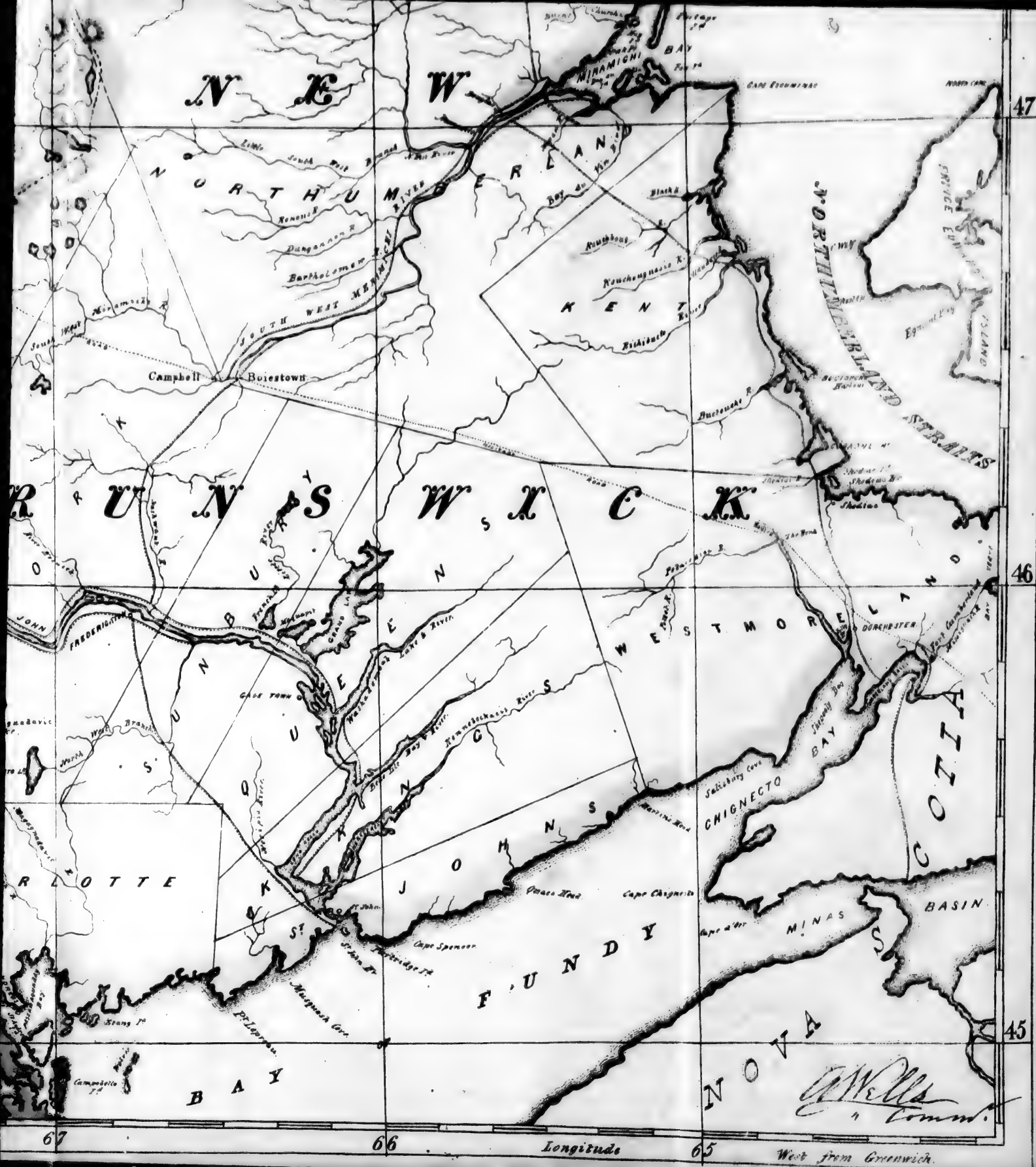


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Longitude

West from Greenwich.



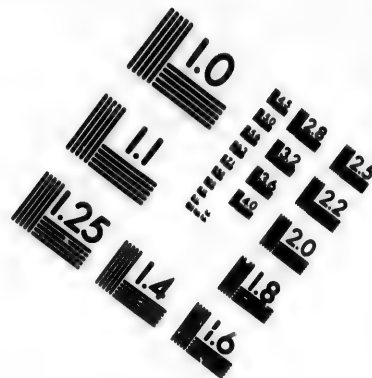
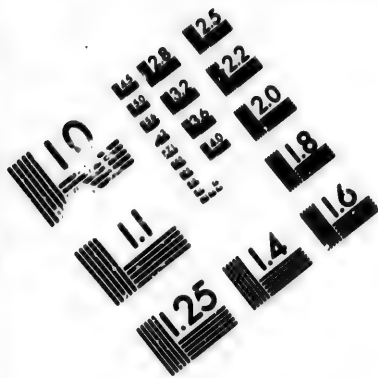
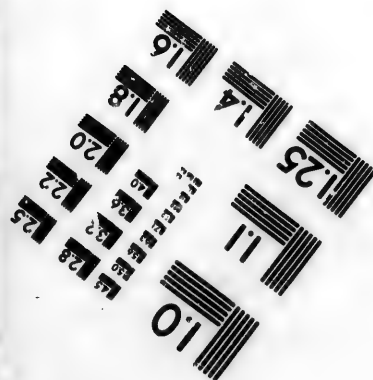
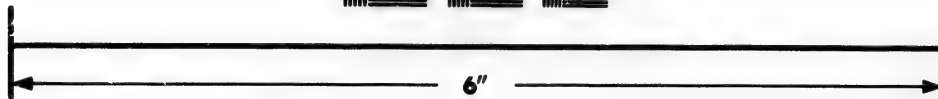
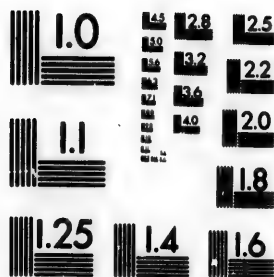


IMAGE EVALUATION TEST TARGET (MT-3)



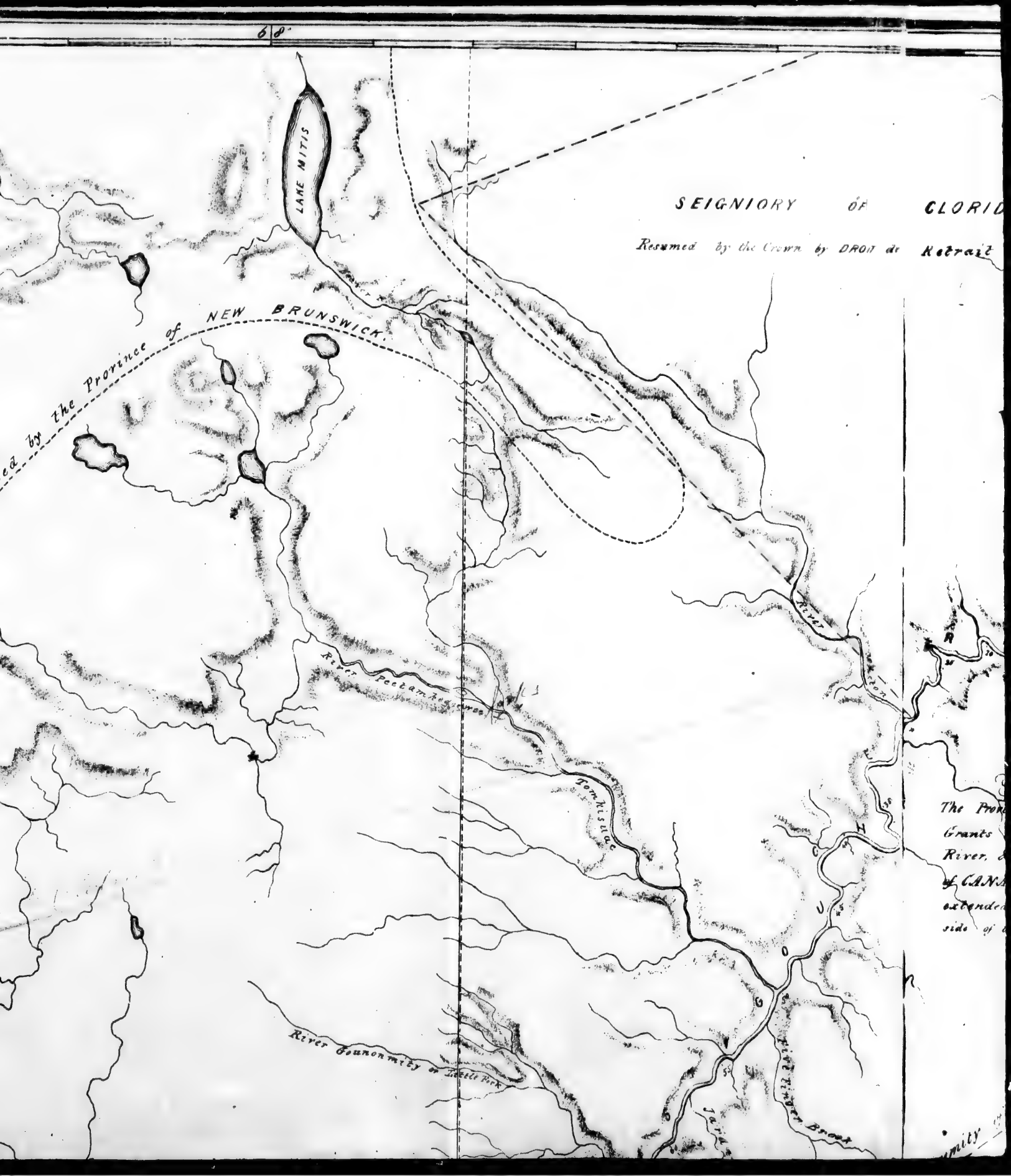
Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

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SEIGNIORY OF GLORIAM

Resumed by the Crown by DROIT de RETRAITE

Province of NEW BRUNSWICK.

The Province Grants River, & of C.A.M. extended side of

River Gannonmity or Little Peabody

imity

D The Line C.D. from near Mission Point on the Ristigouche River, is that Drawn on the Map showing the Claims of New Brunswick: as forming Part of the Eastern Boundary of that Province.

OF CLORIDON Conceded in 1691
FROM de Retrait as Part of CANADA in 1787.

METAPEDIAE
(Canada)
Erected in 1841.

RISTIGOUCHE
(Canada)
Erected in 1841

MANN
Canada/
Erected in 1841

Parish of
ADDINGTON
N.B. 1839 Portage

Parish of
ELDON N.B. 1839

Remarks

The Province of New Brunswick has extended its Grants & Civil Jurisdiction to the Ristigouche River, & the Grants made by the Government of CANADA up to the present time have only extended to the same Limits on the opposite side of the Stream.

Proximity of the Bay des Chaleurs in the Direction of the
here delineated.

Boundary of CANADA
SOUTHERN
COUNTY
WILL
RISTIGOUCHE
RIVER
Branch

Parish of
DALHOUSIE
N.B.

SEIGNIORY

St. John's

CAMPBELLTON

St. John's Bay

Red River

Highland

Southern

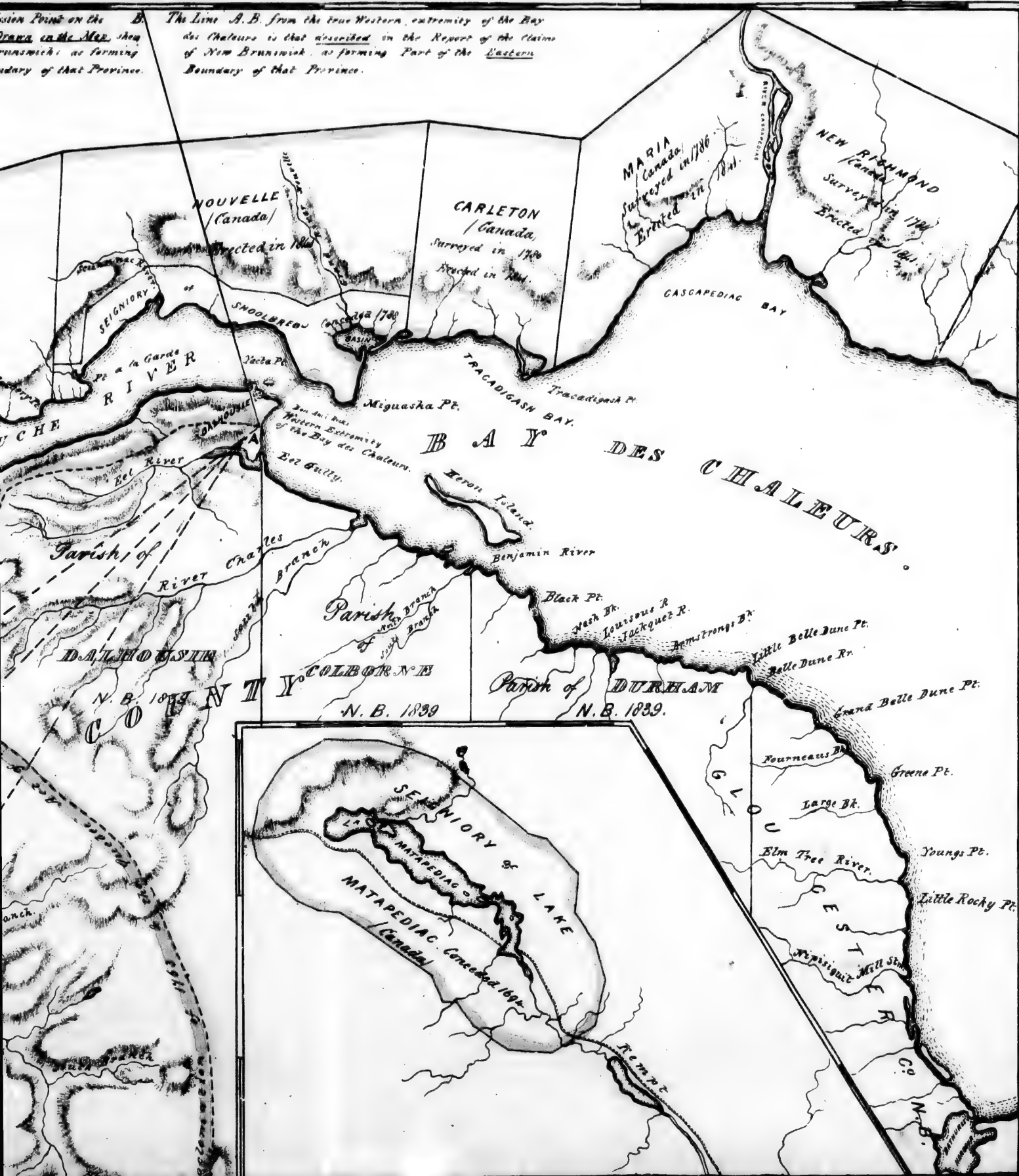
WILL

WILL

Branch

Point on the
Bay de Chaleur
as forming
Boundary of that Province.

The Line A.B. from the true Western extremity of the Bay
de Chaleur is that described in the Report of the Claims
of New Brunswick as forming Part of the Eastern
Boundary of that Province.







Note

The small subdivisions of Lands on the River St Johns (Colored Yellow) are Farm Lots, granted under the authority of the Province of New Brunswick. The Numbers refer to the Year in which the several Grants were effected. See Map D.

CARLETON

Right Line from the Western
is natural features

Separated from York Co

This Portion of the Country being but little known

Extremity
are not h

NORTH LINE Traced from the SOURCE of the RIVER

SECOND RANGE

FIRST RANGE

THIRD RANGE

XVIII

XVII

XVI

XV

VIII

VII

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Guamquerdooch
River 2d. Mr.

Sugar Loaf
Hill

Little River

ONONDAGA FALLS

Woganis

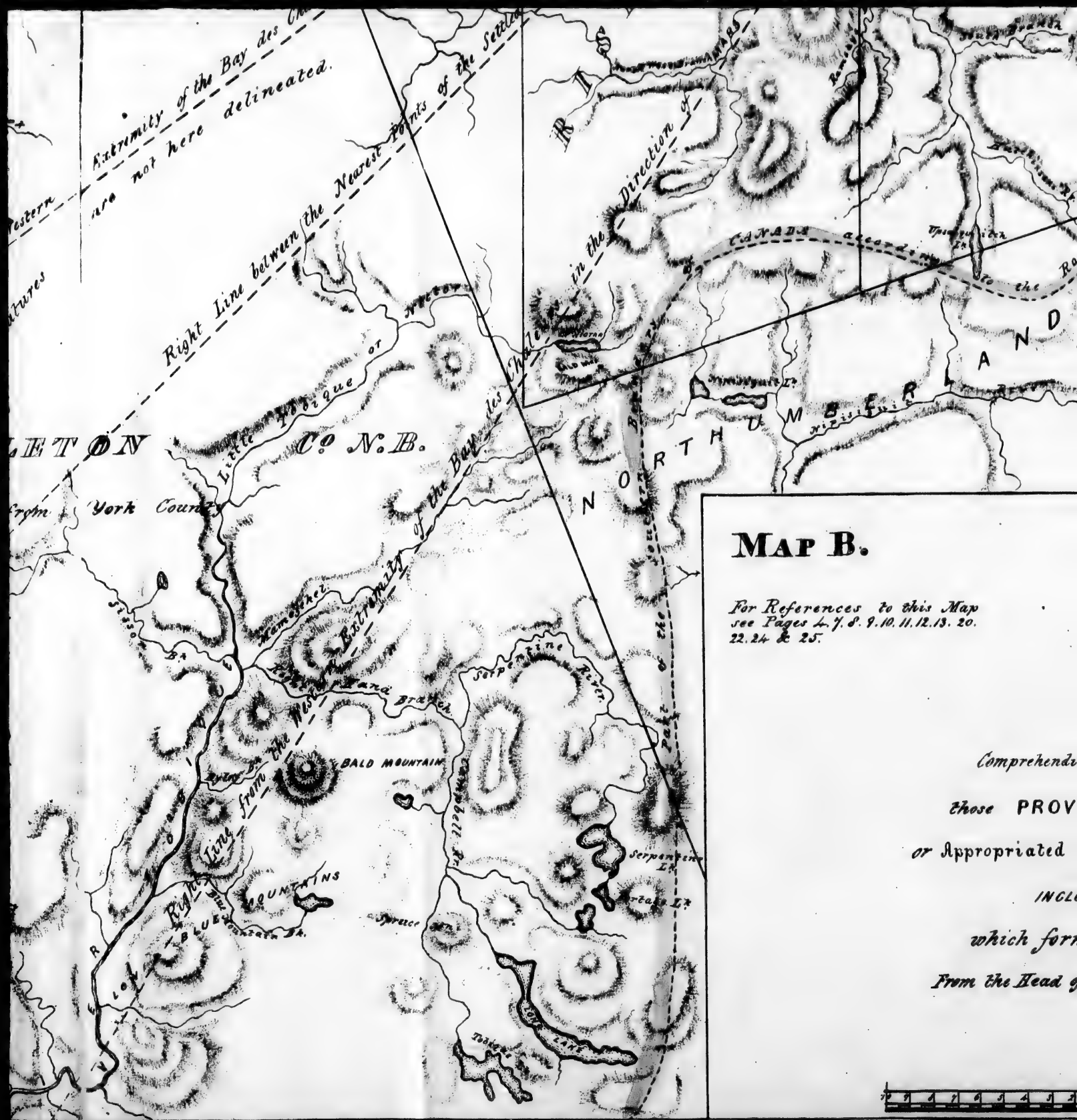
Grand River

Coomb's

Shiagan

S. 1st. Mr.

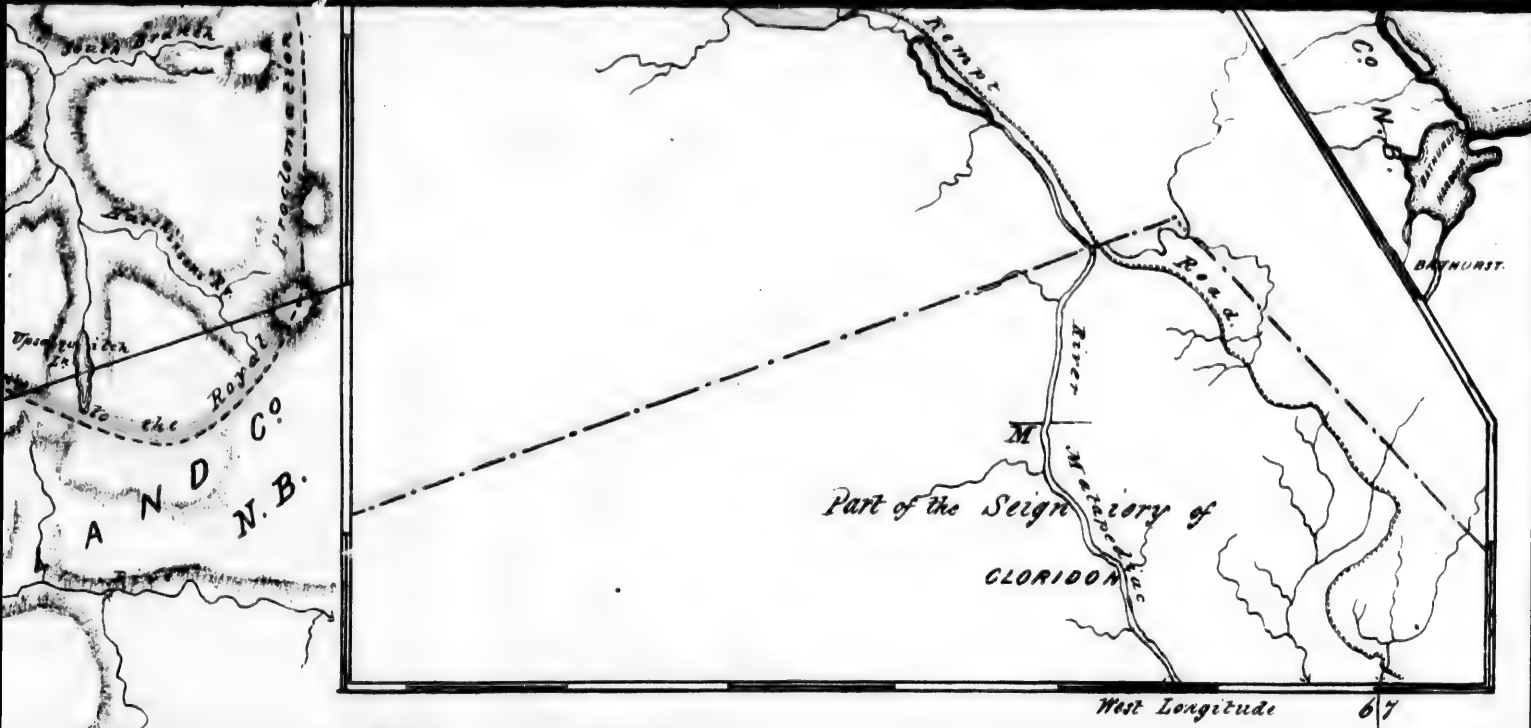
THE NORTH LINE from the SOURCE of the RIVER



MAP B.

For References to this Map
see Pages 4, 7, 8, 9, 10, 11, 12, 13, 20,
22, 24 & 25.

Comprehends
those PROV
or Appropriated
INCL
which form
From the Head of



Map

OF PART of the PROVINCES OF CANADA & NEW BRUNSWICK,

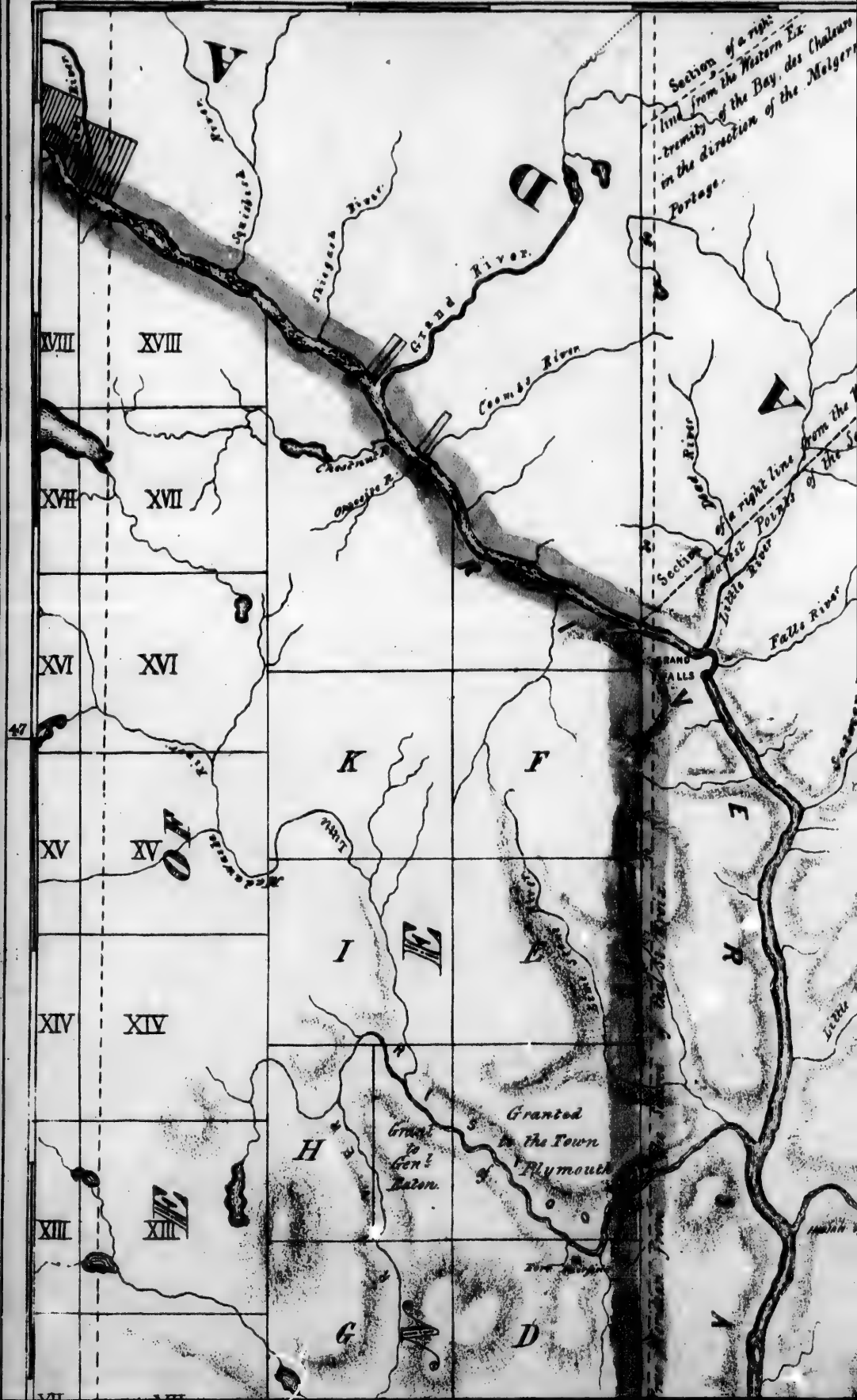
Comprehending the TERRITORY adjacent to the UNSETTLED BOUNDARY between
those PROVINCES and Shewing the POSITION & EXTENT of the LANDS already GRANTED
or Appropriated within the same, under the Authority of Each of the TWO PROVINCES respectively;
INCLUDING also, the RISTIGOUCHE RIVER drawn from ACTUAL SURVEYS
which forms the Present Adopted LINE of BOUNDARY between CANADA & NEW BRUNSWICK,
From the Head of the BAY DES CHALEURS to the Exploratory DUE NORTH LINE traced from the SOURCE
of the SAINT CROIX RIVER.

Scale, of Statute Miles.



Longitude West 66 from Greenwich.

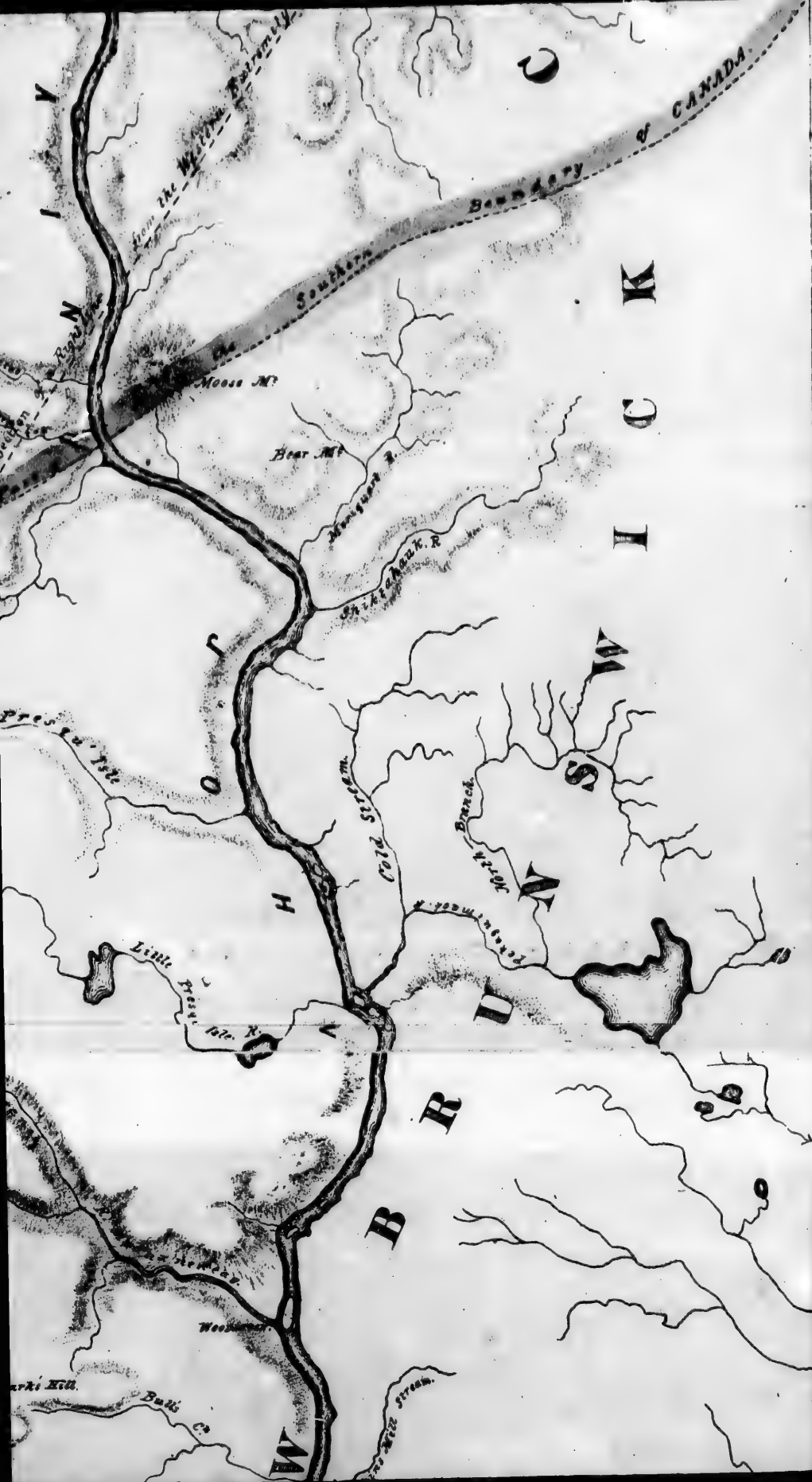
A. McMillan

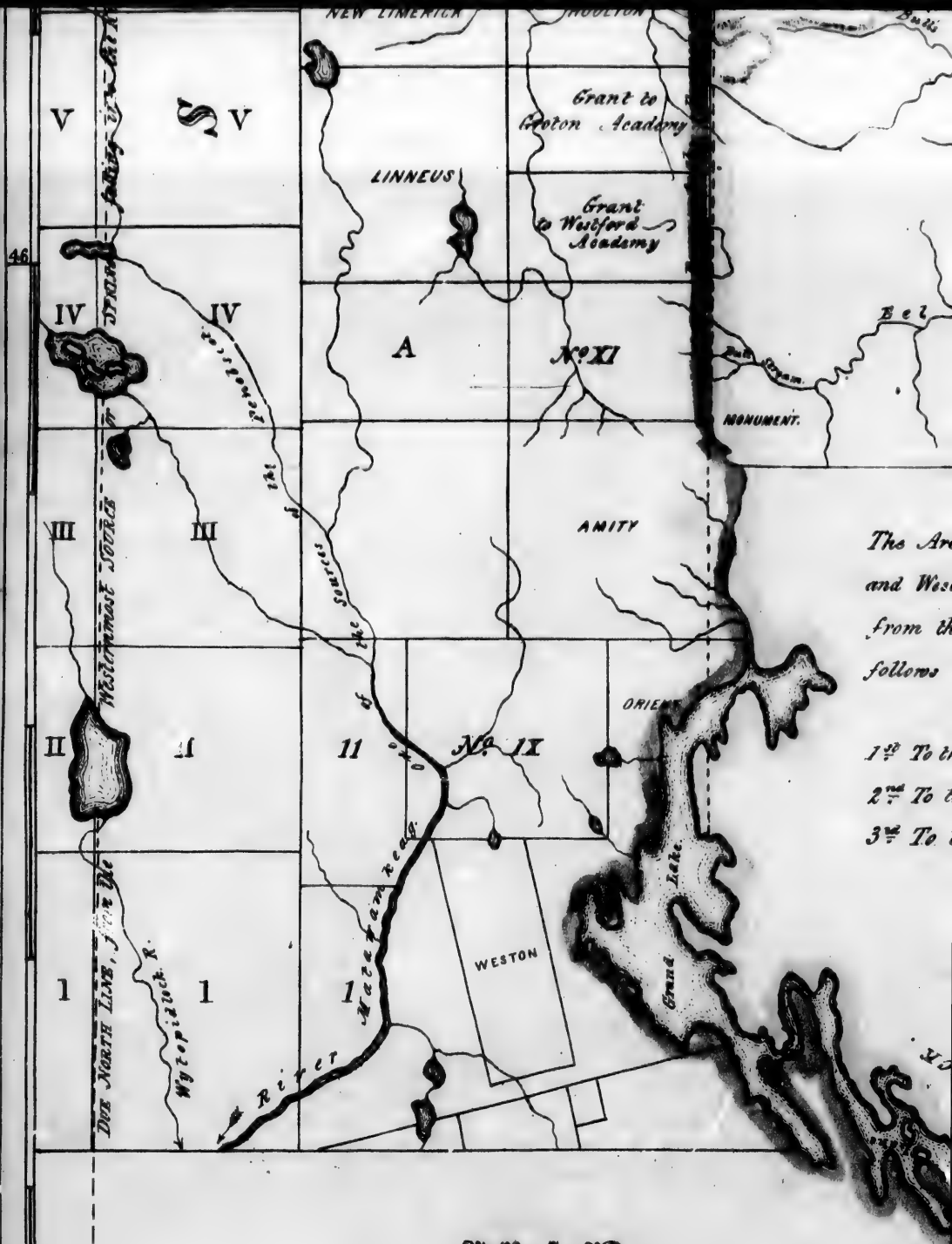


section of a right
line from the Western Ex-
tremity of the Bay des Chaleurs
the direction of the Malgourette
Portage.









MAP

Of the *WESTERN BOUNDARY* of

NEW BRUNSWICK

From the Mouth of the RIVER ST CROIX to the SOUTHERN BOUNDARY

CANADA.

And shewing the Position of a Due North Line from the West

-most SOURCE or SPRING falling into the said RIVER as former



REMARKS.

The Area of the TERRITORY, comprehended between the Northern and Western Branches of the River St Croix, and the Lines traced from their Respective Sources, to the North, is nearly as follows up to the Limits severally mentioned Víz.

<i>1st To the Line formerly claimed by Great Britain</i>	<i>Acres.</i> <u>1,265 000</u>
<i>2nd To the River St John</i>	<u>1,704 000</u>
<i>3rd To the Line formerly Claimed by the United States</i>	<u>2,467 000</u>



SCALE OF STATUTE MILES.



MAP

Of the *WESTERN BOUNDARY* of

NEW BRUNSWICK

From the Mouth of the RIVER ST CROIX to the SOUTHERN BOUNDARY

CANADA,

And shewing the Position of a Due North Line from the West

-most SOURCE or SPRING falling into the said RIVER as formerly

Claimed for the Western Limit of the Ancient

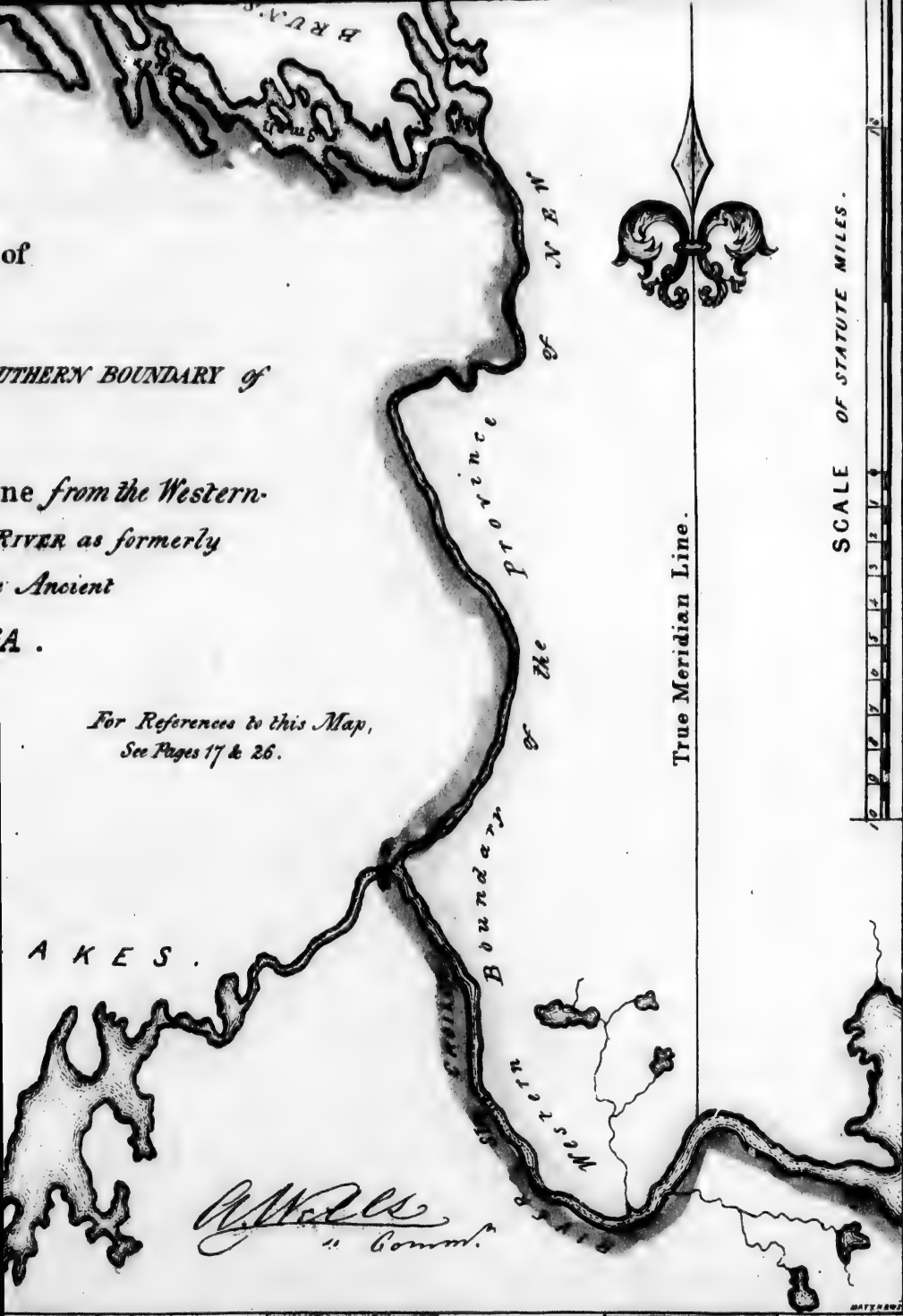
PROVINCE of NOVA SCOTIA.

*For Reference
See Pages*



MAP, C.

Longitude West from 68° Greenwich.



of

SOUTHERN BOUNDARY of

ne from the Western.

RIVER as formerly

Ancient

A .

For References to this Map,
See Pages 17 & 26.

LAKES.

A. Wells
"Comm."

Province of N E W

Boundary of the

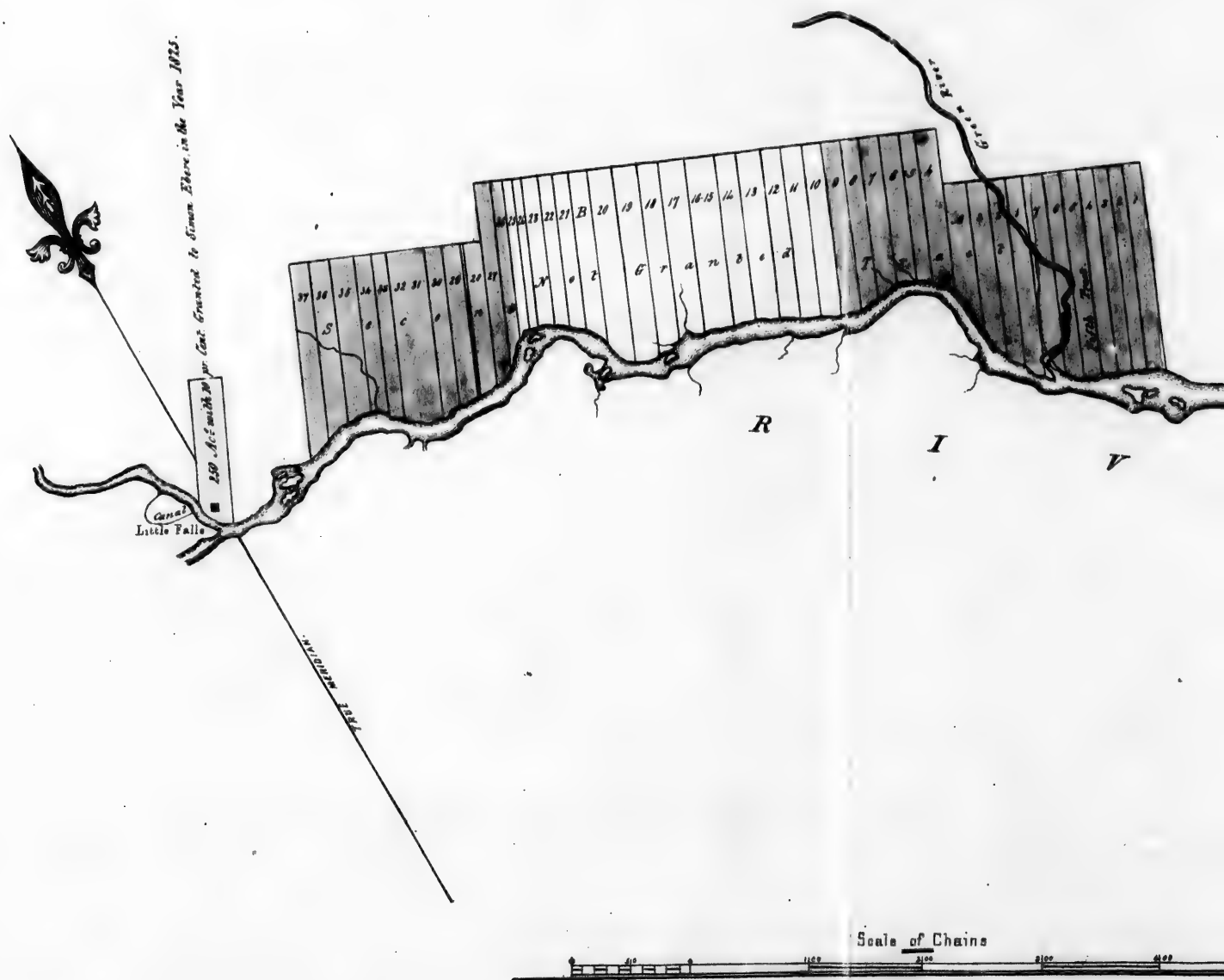
W. 250 M

True Meridian Line.

SCALE OF STATUTE MILES.



MAP, D.

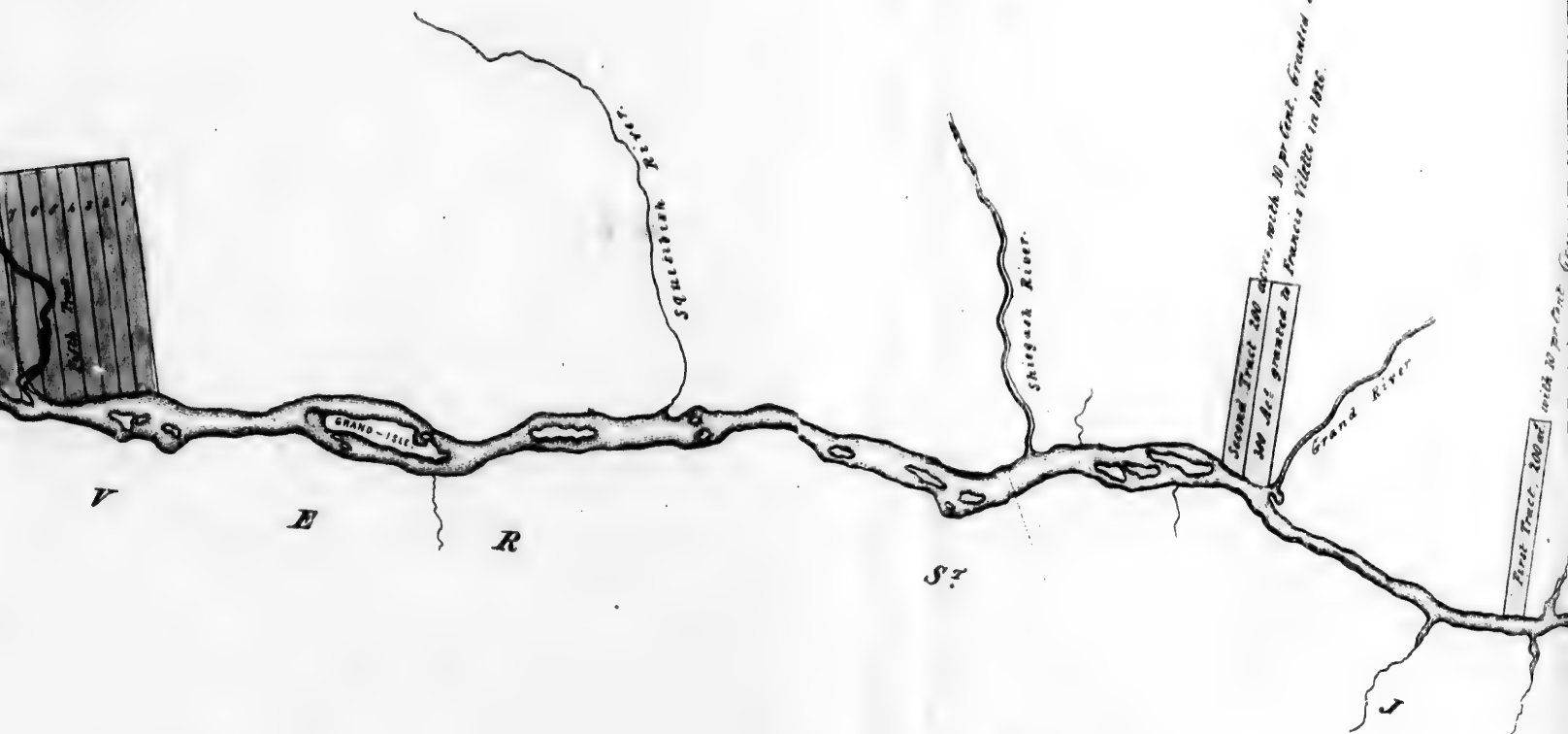


For References to this Map, see Pages 22 & 25.

Copy

*Plan of all the Lands Granted under
the Authority of New Brunswick on the
Northerly Side of the River St. John and
Westward of the Commissioners Line.*

*(Signed) Tho: Biddle
Lt. General.*



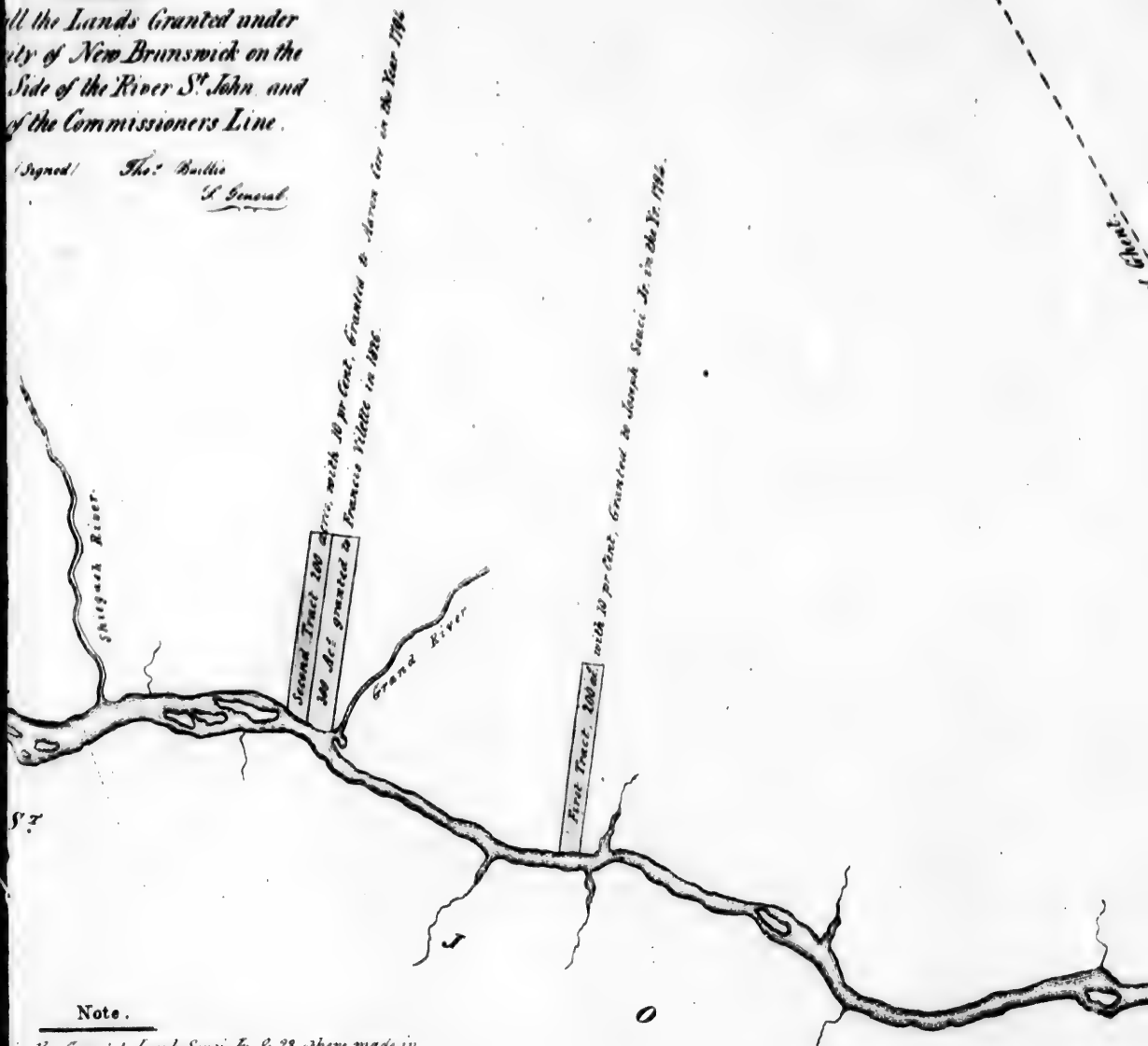
Note.

*Fifth Tract in the Grant to Joseph Sauer Jr. & 23 others made in
the Year 1794 Containing 1605 acres, with 10 pr Cent colored "Red."
Seventh Do. 257 acres Do. Do.
Second Tract in the Grant to Joseph Mixerwell & others made
in the Year 1790, Containing 4261 acs. with 10 pr Cent. Colored "Green."*

Copy

all the Lands Granted under
 City of New Brunswick on the
 Side of the River St. John, and
 of the Commissioners Line.

(Signed) Thos. Baillie
L. General.



Note.

in the Grant to Joseph Souci Jr. & 23 others made in
 1794 Containing 1605 acres, with 10 pr Cent colored "Red."
 Do. 257 acres Do. Do.
 in the Grant to Joseph Maxwell & others made
 1790, Containing 4261 acs. with 10 pr Cent. Colored "Green."

Chas. H. ...

M.A.P.E.

This Plan, is a Copy of the Plan
attached to the Grant
of Lots 4, 5 & 6.

Signed, *V.B.*

Matthew 2187

200 Acres
reserved for Public
uses.

Lot No. 3.

Lot No. 1. Granted to *Lewis Arseneau*

Lot No. 2 Granted to *Joseph Arseneau*

No 3

East 147 Chains or to the West Shore of the Bay.

Lot No. 4. 195 Acres, with 10 pr Cent. allowance
Adam Gerard.

No 5. 190 Acres, with 10 pr Cent allowance
Robert Ferguson.

No. 6. 206 acres with 10 pr cent allowance
Robert Ferguson

Lands reserved for Indians.

North
47
Chains.

Bel River.

Point Reserved for Public Use
Granted to *Robert Ferguson* in 1691

Heap of Stone

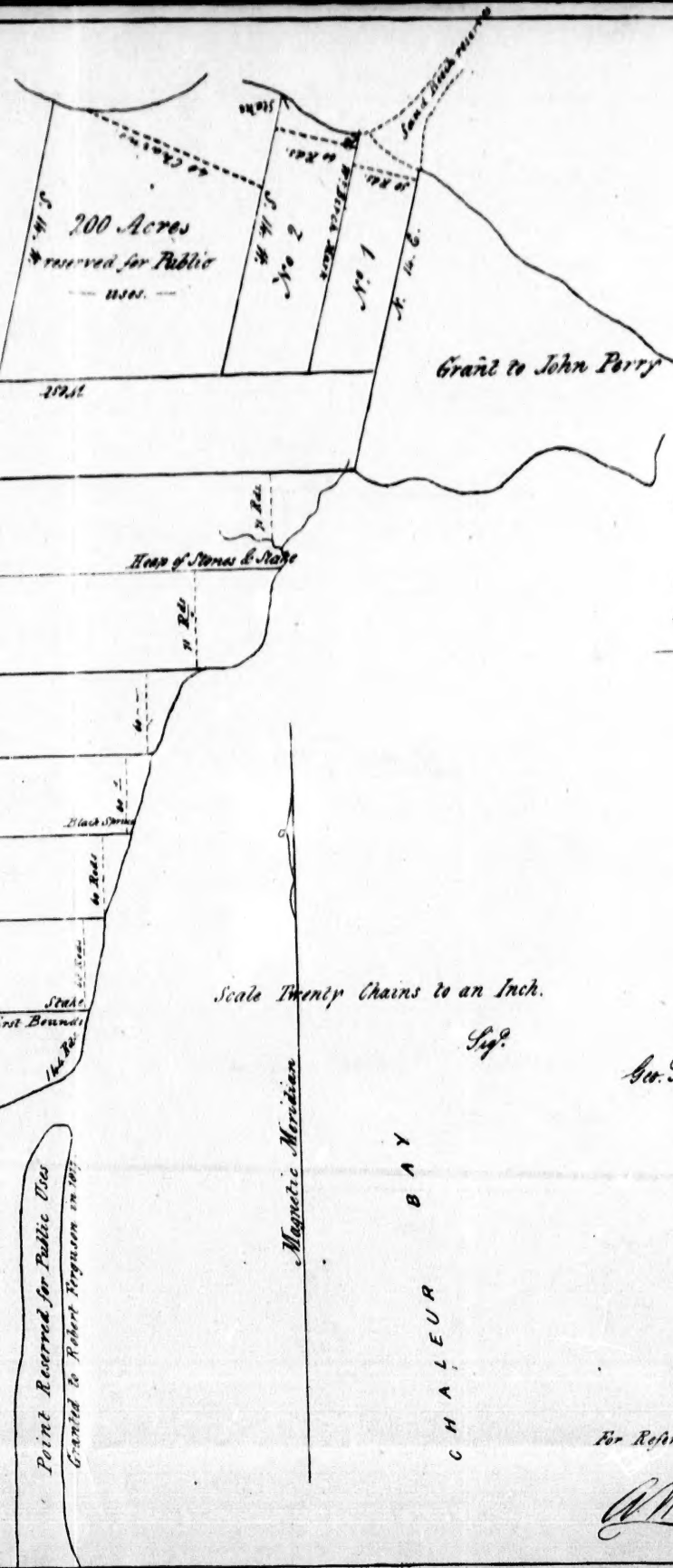
Black Stone

to Bell

Stone

First Boundary

1660



(Copy of Endorsement
on the back of the Original)

Copy of a Plan which shows
the original Reserve at
Dalhousie.

There is no description
to be found.

Signed. *Wm. Baillie*
S. G.

Scale Twenty Chains to an Inch.

Sig.

Geo. Sprout.

Surveyor General.

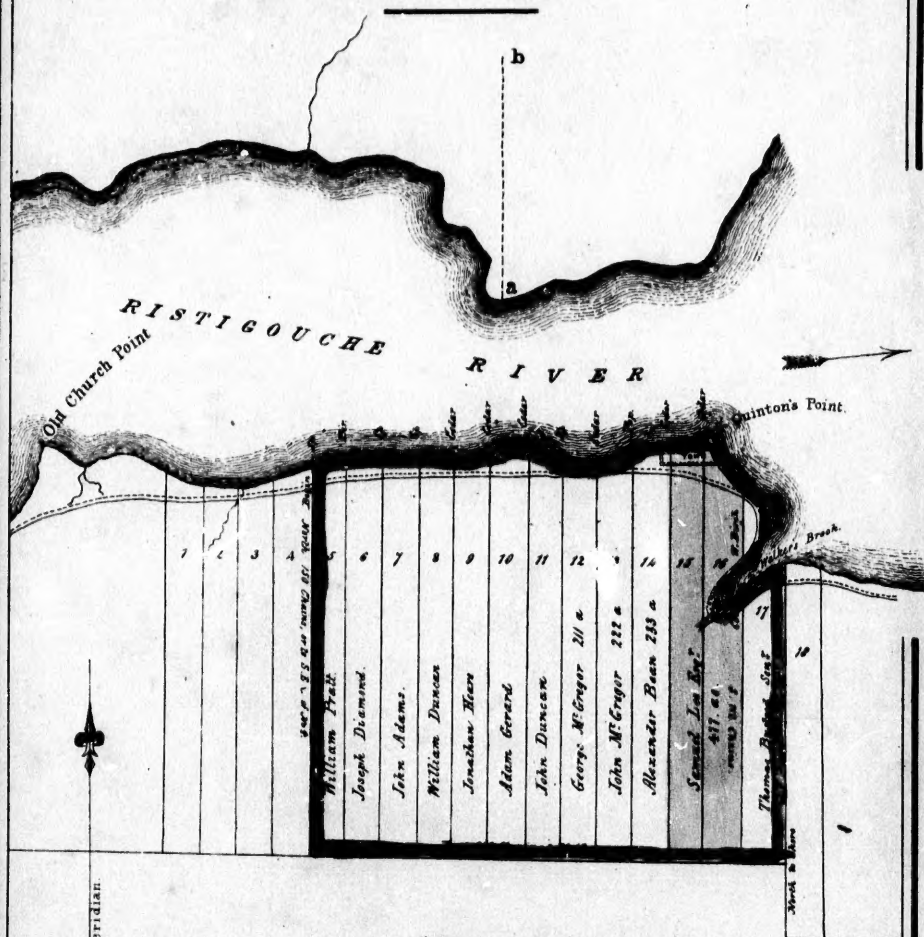
For References to this Map, see Pages 9 & 10.

A. Wells
Commissioner

MAP. F.

COPY

of PART of an OFFICIAL MAP,
whereon are delineated certain LOTS of LAND
On the South Side of the RISTIGOUCHE RIVER,
GRANTED by the Province of NEW BRUNSWICK
to Samuel Lee Esq: & others.



References.

The Lots from No. 5 to No. 17, inclusive, (edged with green) where described in a grant made to Adam Gerard & others in June 1817.
The Lots, Nos. 15 & 16, included in that description (colored red) where granted to Samuel Lee Esq: in January, 1822. (Vide Appendix Nos. 2 & 3)
The Dotted line a. b. added to this Map, shows the place of the line, said to run "about North" from the head of the Bay des Chaleurs, in Mr Baillies Report.

For References to this Map see pages 3 & 11.

SCALE OF CHAINS.

